

DEVELOPMENTS

Book Review - Seyla Benhabib, Another Cosmopolitanism: Hospitality, Sovereignty, and Democratic Iterations (Berkeley Tanner Lectures 2004), Oxford University Press 2006

*By Fatemeh Hajihosseini**

[Seyla Benhabib, *Another Cosmopolitanism: Hospitality, Sovereignty, and Democratic Iterations* [with essays by Jeremy Waldron, Bonnie Honig & Will Kymlicka, edited by Robert Post] (Oxford University Press 2006), 224 pp. ISBN-10: 0195183223 / ISBN-13: 978-0195183221. USD 25.00]

(See also: <http://ndpr.nd.edu/review.cfm?id=9543>)

“Since the narrower of wider community of the peoples of the earth has developed so far that a violation of the rights in one place is felt throughout the world, the idea of a law of world citizenship is no high-flown exaggerated notion. It is a supplement to the unwritten code of the civil and international law, indispensable for the maintenance of the public human rights and hence also of perpetual peace.” Immanuel Kant¹

Living in the “age of rights”² presents hopes and challenges where states, individuals, cultures, religions, identities and moral claims all compete, and where compromises ought to be made for the ultimate goal of protecting human life and dignity. The tension between the moral claims of human rights norms along with the political reality of implementing human rights around the world becomes evident in the daily violations of human rights that take place in every corner of the

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¹ IMMANUEL KANT, PERPETUAL PEACE: A PHILOSOPHICAL SKETCH [1795] in TOWARD PERPETUAL PEACE AND OTHER WRITINGS ON POLITICS, PEACE AND HISTORY (RETHINKING THE WESTERN TRADITION), (Pauline Kleingeld, ed., David L. Colclasure, trans., 2006), at 84-85.

² LOUIS HENKIN, THE AGE OF RIGHTS (1990).

world. Despite these challenges the idea of human rights has inspired the creation of many laws, norms, institutions, declarations and movements. In her most recent book, *Another Cosmopolitanism*, Seyla Benhabib, a political philosopher, takes the moral claim and political aspiration of human rights norms one step further, and declares that “since the UN Declaration of Human Rights in 1948, we have entered a phase in the evolution of global civil society, which is characterized by a transition from international to cosmopolitan norms of justice.”³ She argues for the universalization of cosmopolitan norms, dialogue between the universal and the particular, as well as the operationalization and broader expansion of Kant’s notion of “hospitality” in the actions of democratic states which uphold the norms of cosmopolitan human rights.

This remarkable book is the result of the Tanner Lectures on Human Values delivered by Benhabib in 2004 at the University of California in Berkeley. In addition, what makes the book a very compelling read is the dialogue that is established through the commentaries included in the volume by Jeremy Waldron, Bonnie Honig and Will Kymlicka in response to Benhabib’s views on cosmopolitanism, human rights, democratic norms and theories of citizenship and inclusion. Their comments and her reply to them shed light on the complexity of the issues at hand, and the diversity of opinions that exist regarding the methods of implementing human rights norms.

Although discussions regarding the *how* and *why* of human rights norms continue to abound, Benhabib, the ever optimist, finds ways to show how human rights norms are being upheld and even expanded in new fields. By analyzing events taking place within the European Union, Benhabib argues that a new process of norm creation is taking place. She believes that through repeated engagement with human rights norms barriers can be removed and boundaries can be redrawn within existing democracies. The process which she describes expands the horizons of existing human rights norms and provides ownership to the long-term residents in Europe which have been historically excluded from the mainstream. In explaining this process, she teaches us that “the contradiction between the universalism of ethics and the particularity of law can never be fully transcended but only progressively ameliorated in time.”⁴ In other words, this process of creating new norms and changing existing laws in the hopes of upholding human rights norms and cosmopolitan justice requires constant negotiation and redefinition. What is important to note regarding the concept of cosmopolitanism according to Benhabib, is that it is not a thicker version of human rights norms.

³ SEYLA BENHABIB ET.AL., *ANOTHER COSMOPOLITANISM*, (Robert Post ed., 2006), at 16.

⁴ *Ibid* 5.

Rather, for Benhabib and Critical Theorists cosmopolitanism is “a normative philosophy for carrying the universalistic norms of discourse ethics beyond the confines of the nation state.”⁵ Benhabib believes that cosmopolitanism is a moral and ethical project that can (or will eventually) defy the boundaries and limitations of nation states and even international treaties to empower the individual as *the* agent endowed with rights and claims.

Benhabib explains the move towards upholding cosmopolitan norms of justice by expanding on the Kantian notion of hospitality and its manifestation in the democratic practices of the EU’s member states. She provides two examples which reveal the paradoxes that exist within democracies, namely the existence of borders and national identities that exist in contrast to the inclusive nature of human rights on the one hand, and the responsibility of upholding human rights, on the other. These inconsistencies become ever more apparent and tangible when dealing with long term residents who are no longer aliens but do not qualify for citizenship either. She expands the Kantian notion of hospitality of initial accommodation and protection of newcomers to mean eventual full inclusion within the daily political, social and economic realities of their host states. It is through democratic iterations a process of “linguistic, legal, cultural and political repetitions-in-transformation which not only change established understandings but also transform what passes as the valid”⁶ that progressive normative and legal change takes place. Hence, through repeated engagement with and redefinition of certain norms new mores and social practices are created. She calls this a process of jurisgenerative politics, which “includes the augmentation of the meaning of rights claims and the growth of the political authorship by ordinary individuals,”⁷ which eventually ought to lead to inclusionary politics. In this process both the ‘outsiders’ and ‘insiders’ engage with rights values and meanings to create new norms and laws that move toward a more inclusionary political milieu.

Change and inclusion occur through a process of constant engagement and transformation, which is evident by way of the examples that Benhabib provides and analyzes. In discussing the Head Scarf Affair⁸ in France, Benhabib presents the concerns of both parties: that of the French government which qualified wearing

⁵ *Ibid* 18.

⁶ *Supra* note 4 at 48.

⁷ *Ibid* 49.

⁸ *L’Affaire du Foulard* was a debate that initially started in 1989 where three girls were suspended from a public school for wearing the headscarf. The debate continued to be discussed until a recent 2003 ruling by the French National Assembly which disallows the visible display of religious symbols.

the scarf by Muslim girls as a challenge to French traditions of *laïcité*, and the right of the girls to freedom of religion on the other hand. Despite great effort and debate by the Muslim population in France, young girls have been banned from wearing any visible religious symbols. In face of such a ruling, the girls' defiance and resistance in wanting to wear the scarf stems from their democratic right to freedom of expression and right to practice their religion.⁹ However, this resistance was simply overlooked as religious zealotry by the proponents of *laïcité*. According to Benhabib what these girls "were asking for is no less than a process of democratic iteration and cultural resignification,"¹⁰ which make them agents in their own right. These girls were utilizing democratic tools of civic engagement and freedom of religious expression to challenge the state and demand their rights.

In a similar vein, Benhabib cites the example of German voting laws where in 1990 the German Federal Constitutional Court [FCC] turned down the ruling of the provincial assembly of Schleswig-Holstein granting the citizens of six European member states¹¹ who had lived in that province for five or more years the right to participate in local elections. The main argument made by the Court was that the right to citizenship and being part of a *demos* implies the "right of belonging to the state, the political community of fate, to which individual citizens are bound."¹² Hence, Benhabib understands the court defining "the democratic people as an *ethnos*, as a community bound together by the power of shared fate, memories, solidarities, and belonging."¹³ In these circumstances, it becomes clear that democratic rights are only available to those who historically share these national values. This places great limitations on the desire for democratic participation and inclusion by foreigners who seek to make Germany their new home. Despite the democratic limitations of nationality and territoriality, Benhabib sees a silver lining

⁹ In a discussion that I had with a member of the NGO group "Ni Putes Ni Soumiseses" (Neither Whores Nor Submissives) she explained that the desire for the girls to wear the scarf would inadvertently put pressure on the Muslim girls who would not want to wear the scarf. www.niputesnisoumises.com

See also, Caitlin Killan, *The Other Side of the Veil: North African Women Respond to the Headscarf Affair*, 17 GENDER AND SOCIETY 567 (2003); Mitchell Cohen, *France Uncovered*, NEW YORK TIMES BOOK REVIEW (April 2007); and Mathias Mahlmann, Religious Tolerance, Pluralist Society and the Neutrality of the State: The Federal Constitutional Court's Decision in the Headscarf Case 4 GERMAN L. J. No. 11 1009 (2005).

¹⁰ *Supra* note 4 at 58.

¹¹ The six countries whose citizens the Municipality of Schleswig-Holstein wanted to grant reciprocal voting rights were: Denmark, Ireland, the Netherlands, Norway, Sweden and Switzerland. See BENHABIB, *supra* note 4 at 65.

¹² *Supra* note 4 at 63.

¹³ *Id.*

where Germany, due to membership in the European Union, will eventually heed to its changing ethnographic layout and will respond to the required changes.

Benhabib believes that by engaging in the process of democratic iteration dialectic is established between rights and identities in democracies where differences are negotiated and can be mediated. Muslim girls in France were “learning to talk back to the state” by way of practicing their democratic rights, and long-term residents in Germany sought inclusion within the political decision making process not as German citizens but as members of their local communities. These examples reveal the challenges facing democracies that seek to uphold norms of diversity and inclusion but which also want to maintain a sense of national and cultural identity. For Benhabib however, the challenges are part of the process of moving towards achieving the goals of cosmopolitanism norms of justice which empower individuals as agents with rights and claims.

However, what is missing in this equation is the role that power and politics play in enabling this dialogue to take place and for change to take effect. Despite the caution of seeing this transformative change which is taking life in Europe as a process in the making, moving towards cosmopolitan norms of justice and hospitality still seems vague, and perhaps overly ambitious with regards to the goals it hopes to achieve. For example, what exactly are the content of cosmopolitan norms of justice, who determines them, what are they based on, how far along are we in this process of democratic iteration and how much more do we have to go in order to reach this state of bliss where differences are not only negotiated but celebrated and not ignored or feared. The commentaries following Benhabib’s work discuss her propositions and views.

In his comment, Jeremy Waldron asks what is the content and context of the cosmopolitan order and where these norms originate. Benhabib regards cosmopolitan norms of justice as emerging both above national and municipal laws (as a guiding system) and as part of their operating system by upholding the concept of “hospitality.” However, Waldron does not “think that hospitality is about states or political communities at all, whether at the level of a world republic or an individual republic. It’s about relations between people and peoples, and it needs to be read in that determinedly non-state centered way.”¹⁴ Regarding the notion of “hospitality” Bonnie Honig also points out that “the undecidability of host/hostility and its ethicopolitical implications are erased not captured, by an analysis like Benhabib’s that insistently identifies *hostility* with one singular principle—ethnos, or state nationalism and *hospitality* with another that is distinct

¹⁴ *Ibid* 89-90.

and apart—Enlightenment universalism.”¹⁵ The examples that Benhabib cites are clearly not successful models of inclusion but rather imply the process through which democratic norms can both be empowering and limiting. They can both invite dialogue and also halt it in the name of preserving national identity. Honig however argues that Benhabib views this paradox and yet does *not* want to resolve it.¹⁶ She contends that despite the dialectic of rights, the foreigner in Benhabib’s picture “is always already marked as a particularity to European universality. And although she treats both as two moments in a dialectic, the two are unequal: Universality represents a *principle*; democratic self-determination an *exigency*. And universality provides the perspectives from which the claims of particularity are judged.”¹⁷

Both Waldron and Honig see Benhabib’s analyses fixated on an end, upholding cosmopolitan norms of justice, through a process, democratic iterations, which is based on the engagement of an outcast civil society with a powerful state with concepts such as human rights, democratic norms and cosmopolitan norms of justice. Although Benhabib does not couch it as such, but perhaps the point to take is that through resistance, agency and dialogue social movements can lead the process towards negotiating democratic rights and national identities. Honig however, remains skeptical of the linear progression of this change, of democratic iterations towards inclusion and hospitality when states remain ever powerful and the role of social movements are ignored. Kymlicka on the other hand views Benhabib’s analysis as one of “taming liberal nationhood,” where he understands her to “want to claim not only that these processes of transcending liberal nationhood are occurring empirically, but that they should be normatively endorsed and promoted.”¹⁸ In other words, these progressive changes taking place in Europe are indeed jurisgenerative, and can “tame” the exclusionary practices of liberal nationhood which is a conception that is “conceptually coherent, politically feasible and morally progressive.”¹⁹

In response to the commentaries Benhabib replies to the many different points raised especially by Waldron and Honig regarding her state-centric views, emphasis on formal law and the paradoxes of liberalism, role of borders and social

¹⁵ *Ibid* 106.

¹⁶ *Ibid* 108.

¹⁷ *Ibid* 110.

¹⁸ *Ibid* 131.

¹⁹ *Ibid* 133.

movements, the scope and content of cosmopolitanism, and conflation of the Kantian concept of hospitality. She points out that “the borders of the unconditional and the conditioned are heterogeneous, but the ethical can and ought to inform the juridico-political. I search for the mediation between the ethical and the moral, the moral and the political.”²⁰ Realizing the challenges that the phrase “a right to have a right” poses for both states and peoples, Benhabib realizes that a dialectic ought to be established between different milieus if we are to move towards upholding cosmopolitan norms of justice. Indeed, by highlighting the paradoxes and contrasts she draws a very realistic picture of the challenges. Yet she remains optimistic that change can occur through the process of democratic iterations where tensions exist but which can potentially lead to redefinition and negotiations. She argues that “when rights are appropriated by new political actors and filled with content drawing on experiences that could not have guided those rights in their initial formulation, they open up new worlds and create new meanings. This is precisely what I had in mind when I used the concept of ‘democratic iteration.’ Every iteration transforms meaning, adds to it, and enriches it in ever-so-subtle ways.”²¹

While it is hopeful and very powerful to see people’s engagement with certain concepts as transforming existing structures of discrimination and alienation, what Benhabib leaves out of her analysis is the role of power and desire for continuity. Even though a new discourse or new meaning is in the making, the question is how and where it can change laws, because in the examples that she cites the old structures seem to remain intact. While Benhabib deconstructs paradoxes, challenges and differences arising from the way that the legal system constitutes rights leading to inclusion and exclusion, and seeks to reconstruct the relationship between insider and outsider based on allegedly universal norms that ought to lead to greater inclusionary politics and social practices, she fails to provide tangible evidence for where this process of democratic iteration is operationalized. Although the European Union can serve as an important example of the aspiration to a transnational institutionalization of democratic values and human rights norms, it remains to be seen how European states accommodate the changes demanded by their new generation of citizens and immigrants who have new and different expectations from their state. In other words, despite great success at providing refuge and safety to those fleeing violence in their home countries, we have yet to see the operationalization of Benhabib’s version of “hospitality” within the democracies of Europe which at times fear change and desire continuity. In addition, I think it is also important to take these normative and legal discourses

²⁰ *Ibid* 158.

²¹ *Ibid* 159.

outside the realm of the “North” and see how, if indeed possible, these frameworks of analysis can work in the “South,” where individual people and social movements are challenging the actions of their quasi-democratic or non-democratic states; where they are all asking for the recognition and implementation of their universal human rights.

Let us briefly return to the beginning of her lectures, where Benhabib defines cosmopolitanism as a

“philosophical project of mediations, not of reductions or of totalizations. Cosmopolitanism is not equivalent to a global ethic or such; nor is it adequate to characterize cosmopolitanism through cultural attitudes and choices alone. I follow the Kantian tradition in thinking of cosmopolitanism as the emergence of norms that ought to govern relations among individuals in a global civil society. These norms are neither merely moral nor just legal. They may best be characterized as framing the ‘morality of law’ but in a global rather than domestic context. They signal the eventual legalization and juridification of the rights claims of human beings everywhere, regardless of their membership in bounded communities.”²²

It appears that cosmopolitanism is the next step towards the fulfillment of universal human rights norms and laws. However, as grand and empowering as the concept of cosmopolitanism may sound the reader is left asking: how are cosmopolitan norms of justice different from universal human rights norms? How do they seek to establish greater equality and access to justice than human rights norms? Or is it simply a “thicker” more politically conscious version of human rights? I think that cosmopolitan norms of justice and cosmopolitics are normative and legal concepts that we hope to achieve but at the moment, despite great efforts to construct them still have not succeeded in providing a clear and tangible meaning of what they mean or what they ought to mean. Benhabib’s deconstruction and analysis of the challenges facing the newcomers to Europe and the paradoxes of liberal democracies are accurate portrayals of the political, legal and social obstacles towards achieving standards of universal hospitality and justice. Her book is an important addition to the ongoing discourses that unveil the shortcomings in human rights norms and seeks to take human rights norms to the next level. According to Benhabib’s assessment cosmopolitan norms of justice can be achieved through the process of democratic iterations. How and where can this process start? Benhabib thinks it’s already beginning in Europe where old customs and norms are

²² *Ibid* 20.

being challenged by foreigners who have made Europe their home. But then again, if the process starts in Europe can the creation of the norms of cosmopolitan justice escape accusations of Eurocentrism, or would this simply be a new process which defies the influence of borders and national identities with the goal of being universally inclusive and equal? The project seems to be underway and the results are yet to be known.

