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**CULTURAL INTERPRETATION AND
UNIVERSAL HUMAN RIGHTS**
A Response to Daniel A. Bell

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IN A REVIEW ARTICLE TITLED “The Limits of Liberal Justice,”¹ Daniel Bell raises the question of the appropriateness of applying “Western” conceptions of human rights norms to non-Western societies, societies often characterized, at the present, by gross violations of human rights (such as China). According to Bell, Western theories of universal human rights, such as those found in Brian Barry’s *Justice as Impartiality*,² exhibit what Bell calls a “‘parochial universalism,’” that is, “an attempt to put forward a universally valid theory of justice that draws only on the moral aspirations and political practices found in liberal Western societies” (p. 568). To such “parochial universalism,” Bell contrasts the “interpretive approach,” which seeks to find a justification for human rights norms from within diverse cultural traditions. The goal of this approach is to uncover what the political philosopher Joseph Chan has characterized as an “overlapping consensus” on human rights norms (p. 567). In this response, I focus on Bell’s own defense of an “interpretive” as opposed to “universalistic” conception of human rights. I argue that the interpretive approach, by itself, is inadequate for the task of either defining or defending fundamental human rights, and that such rights must depend, ultimately, upon a “nonparochial” universalism.

In discussing Barry’s aspirations to formulate a universalistic theory of justice, Bell comments that Barry

does not draw on anything worthwhile from the Chinese political tradition. This should worry those concerned with promoting human rights in a Chinese context, for Barry’s book can be seized upon as yet another arrogant attempt by Western liberals to push

forward a “universal” theory that rides roughshod over the cultural particularities of non-Western societies. One cannot be certain that the “interpretive” approach will do more for human rights, but that’s where I’d place my bets. (p. 568)

Charges of liberalism’s “parochialism,” combined with its supposed arrogant pretensions to universalism, have become popular tropes in an “age of multiculturalism.” So in his essay “The Politics of Recognition,” Charles Taylor argues that “liberalism is not a possible meeting ground for all cultures, but is the political expression of one range of cultures, and quite incompatible with other ranges.”³ It is worth noting that Taylor also wants to defend basic human rights norms, and he talks of distinguishing “fundamental” and “crucial” rights, rights “that have been recognized as such from the very beginning of the liberal tradition: rights to life, liberty, due process, free speech, free practice of religion, and so on.”⁴ Such rights “should never be infringed and therefore ought to be unassailably entrenched.” In general, Taylor assumes that a regime that entrenches these rights, even if it pursues what he terms “strong collective goals,” can still be a liberal one.⁵

Bell insists that he too is interested in advancing the cause of human rights throughout the world, that is, in all cultures. Nowhere in his essay, however, does Bell define fundamental human rights, which makes it somewhat difficult to examine the cogency of his argument. Let us assume for the moment (what Bell might reject) that basic human rights are roughly equivalent to the rights—the “first generation rights”—as set forth in articles 1-20 of the United Nations’s Universal Declaration of Human Rights of 1948. As contained in this document, human rights include, first, an assumption of the absolute equality of persons: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status” (article 2). This is followed by a list of enumerated rights (articles 3-20) that include the right to life, liberty, security of person; the right not to be subject to slavery, not to be subject to torture; rights of thought, conscience, speech, religion, association, peaceable assembly; the right to own property; and all the rights associated with due process of law: no arbitrary arrest or seizure, presumption of innocence until proven guilty, right to trial by jury, and so forth. These form what might be called the “liberal” rights of the declaration. The further “democratic” rights (article 21) include the right to take part in the government, either directly or through freely chosen representatives (21.1); the right to equal access to public service (21.2); and the “right” that the government be based on the will of the people and hold periodic elections with “universal and equal suffrage” (21.3). If we combine these two sets of rights, we come up with the

basic principles of a liberal-democratic regime. Pretty clearly then, Bell would consider the United Nations's declaration to be just another example of "Western liberal parochialism" masquerading as universalism.

Perhaps Bell would want to narrow the range of what counts as a scheme of fundamental human rights to allow for cultural particularities. Perhaps he would want to jettison the "democratic elements" of a scheme of human rights to allow for a greater range of cultural variation but stick with the basic liberal rights, those rights that Taylor, for example, characterizes as "fundamental" and "unassailable." This would cause Bell difficulties, to be sure, since he is committed to the struggle for democracy in China. Nonetheless, he might argue that democratic principles are radically at odds with certain cultural traditions and should not be universally advanced. And perhaps he would want to go even further and endorse, as John Rawls does in his essay "The Law of Peoples,"⁶ a minimal conception of human rights, one that is intended to be neither distinctively liberal nor democratic. Rawls maintains in this essay that his goal, in part, is to outline a theory of human rights that is not "in some way distinctive of the Western political tradition and prejudicial to other cultures"⁷ and that can, therefore, be endorsed by a wide range of cultures (i.e., can be the focus of an "overlapping consensus"). To this end, Rawls presents an absolute minimum list of basic human rights that any society must uphold in order to be what he terms a "member in good standing" of the "society of peoples." These include

minimum rights to means of subsistence and security (the right to life), to liberty (freedom from slavery, serfdom, and forced occupation) and (personal) property, as well as formal equality as expressed by the rules of natural justice (for example, that similar cases be treated similarly).⁸

According to Rawls, what he terms a "well-ordered hierarchical society" respects basic human rights, but such a society is neither liberal nor democratic: persons in society are not viewed as free and equal citizens with equal rights; a state religion, for example, may largely control governmental policy and grant certain privileges to that religion and its members; "individuals do not have the right of free speech as in a liberal society";⁹ and while there is not full liberty of conscience, persons are allowed to practice their religion "in peace and without fear" as members of distinct religious groups. In general, whatever rights persons possess accrue to them not as individuals, but as members of such groups or "corporate entities."¹⁰

What Rawls characterizes as a "well-ordered hierarchy" appears to be modeled in part on descriptions of the "millet system" of the Ottoman Empire, in which Islam was the established religion and Muslims constituted

the ruling class while practicing a broad system of religious toleration toward the largely self-governing Christian and Jewish “millets.” As Will Kymlicka notes of this system,

It was not a liberal society, for it did not recognize any principles of individual freedom of conscience. . . . Heresy (questioning the orthodox interpretation of Muslim doctrine) and apostasy (abandoning one’s religious faith) were punishable crimes within the Muslim community. Restrictions on individual freedom of conscience also existed in the Jewish and Christian communities. . . . The millet system was in effect a federation of theocracies.¹¹

And some Islamic states today have said that the freedom of conscience listed in the Universal Declaration of Human Rights should not include the freedom to change religion.¹²

Given that “well-ordered hierarchical societies” do not uphold full and equal individual liberty of conscience and freedom of speech, they fail to protect certain basic human rights. If we accept this, then Rawls’s attempt to formulate a “nonindividualistic” (i.e., nonliberal) theory of fundamental human rights fails. This points to the necessity for a “liberal” formulation of the principle of human rights. On this view, rights, as employed in the phrase “human rights,” are fundamentally individualistic in two related senses.¹³ First, they accrue to individuals and only to individuals rather than to individuals as members of “corporate bodies”: they protect individuals against the actions of any and all collectivities. Second, such rights give to the individual who possesses them what H.L.A. Hart has called a kind of “sovereignty” over her moral world:¹⁴ to have a right is to be in a position to impose a duty on a collectivity or a political regime—any political regime—to act in certain ways toward the possessor of the right. Hence, individual rights in large measure determine and limit the form of any state (or of any unit of collective control). Finally, inasmuch as certain rights are classified as *human* rights, they are both egalitarian and universalistic. They are egalitarian because they are held equally by all persons in virtue of their common humanity, and they are universalistic because common humanity means just that—the same everywhere and, therefore, of course, the same in all cultures (i.e., the concept of human rights is radically at odds with the concept of “Confucian human rights,” “Buddhist human rights,” etc.). Human rights are a fundamentally transcultural concept.

Bell would perhaps reject that liberty of conscience and free speech must be included among fundamental human rights. I will simply conjecture that Bell would accept that they should be on the basis of two observations. First, Bell opens with a reference to the Chinese protesters who were massacred in

Tiananmen Square. If anything, these dissidents fought and died for a right to free speech. Second, part of Bell's essay (pp. 576-78) is devoted to a sympathetic review of the book *Le moine et le philosophe: Le bouddhisme aujourd'hui*,¹⁵ which recounts how Matthieu Ricard, a molecular biologist, left his career "to take up a full time 'career' as a Buddhist monk at the age of twenty-six" (pp. 576-77). The right to religious conversion, forbidden in the millet system, is a paradigmatic instance of individual liberty of conscience. So I will assume that Bell himself is at least in part committed to what I have identified as a largely liberal conception of fundamental human rights.

If we accept this liberal formulation, then the concept of fundamental human rights is a distinctively "Western" notion in the limited sense that it developed out of a particular cultural and historical tradition, that associated with the rise of Western liberalism. But Bell and Rawls are wrong, I believe, to emphasize the particularity of the moral intuition that underlies such a conception of human rights. According to Rawls, the idea that "human beings are moral persons and have equal worth" requires a "deep philosophical theory" or "comprehensive view" that many would reject as embodying principles "in some way distinctive of the Western political tradition and prejudicial to other cultures."¹⁶ Is it true that the idea that "human beings are moral persons and have equal worth" is part of a particular "comprehensive moral doctrine" or requires such a doctrine for its justification? This idea, or something analogous to it, has been expressed in a variety of ways in a variety of different religious and philosophical traditions (though of course, by no means all). Thus, it is not necessarily a conception that depends upon one "Western" "comprehensive doctrine"; rather, it could itself be the focus of an overlapping consensus. This point would be helpful to Bell's project, for it would show that other cultural traditions—by which Bell seems to mean religious traditions (all of his examples concern non-Western religions)—may contain resources to support something akin to a liberal conception of fundamental human rights norms.

But there are several points to be made in regard to Bell's approach of "cultural interpretation." First, the extent to which something analogous to basic human rights norms can be derived from within diverse religious-cultural traditions is clearly a matter of degree. Values that could support basic equal rights for all persons regardless of race, religion, or gender may be virtually nonexistent in a given religious-cultural tradition or of such marginal significance as to defy anything like an "interpretive derivation" of human rights. Second, the project of attempting to find resources within a given cultural tradition, no matter how marginal, to guide that tradition to support basic human rights, does not necessarily free one from the charge of the "hegemony" of Western liberalism. After all, the goal is to guide these tra-

ditions in a direction that, left to themselves, they might not otherwise have gone. The academic “interpretivists” are looking within diverse religious traditions to find values and principles that can be emphasized (or perhaps “interpreted”) in such a way as to create a consensus on what is a dominant ideal of the Western liberal tradition.

Locating resources within various cultural traditions to support human rights norms is a praiseworthy and potentially important endeavor. It may greatly facilitate the adoption of such norms in all cultures. Yet Bell insists that “ ‘cultural interpretation’ is not just a strategic matter of finding local resources for the promotion of human rights” (p. 579, note 16). Bell comments that non-Western traditions might “contribute to the international discourse on human rights, changing it from what it is today” (p. 579, note 16). To what extent, however, can we allow for significant departures from a list of enumerated basic individual rights (i.e., rights to life, liberty, free practice of religion, free speech, due process, etc.)? For example, when discussing Chan’s work, Bell comments that “[according to Chan] key elements of Confucianism are compatible with the idea of human rights, though Confucians might have their own understandings about the justification, scope, and prioritization of human rights” (p. 567). This assertion invites a key question: to what extent can one vary the “scope and prioritization” of fundamental human rights and still be said to be dealing with a conception of such rights at all? Suppose that the right to life was “prioritized” below the desires of a spiritual leader. Suppose the scope of rights was limited to the right to life, a right exercised in a life of slavery. Bell contends that “ ‘cultural interpretation’ ” might show that “in certain areas non-Western traditions may justifiably differ from ‘international’ human rights norms” (p. 579, note 16). But if fundamental human rights norms identify a basic minimum of rights that all persons possess simply in virtue of their common humanity, how could there be any justification for departing from them? How could cultural particularity provide a justification for violating those norms that by their very nature presumably transcend cultural particularity?

The standard by which we judge the minimal requirements a conception of human rights must meet (i.e., the requisite scope and priority of individual rights), if we acknowledge that there is such a standard, would have to be transcultural, otherwise we would have no way of saying whether or not a given culture or political regime complied with or violated fundamental human rights. And if we don’t acknowledge such a standard to exist, then there is no point in talking about fundamental human rights at all. If there is no transcending cultural particularity, then there are no universal norms and no fundamental human rights that can be demanded by all persons. And if there is no transcending cultural particularity, there is no possibility of a mul-

ticultural “overlapping consensus.” For although such a consensus would, presumably, be based upon multiple and varied forms of culture-specific justifications for fundamental human rights, it would still be a consensus; that is, it would presuppose convergence on something that transcends cultural particularity. Barring any sense of what transcultural fundamental human rights norms are or must be, how would we even know what we were seeking a consensus on?¹⁷

Finally, in emphasizing the importance of global human rights norms and global democratization, Bell opens his essay with a reference to the massacre in Tiananmen Square. What is significant about the writings and speeches of those who led the protest movement is precisely the extent to which they did not engage in anything like the “interpretive approach” Bell recommends (seeking, e.g., to justify their call for human rights norms and democratization on the basis, e.g., of Confucian principles). Here is an excerpt from a speech by Fang Lizhi, one of China’s leading dissidents and a key figure in inspiring the protest movement, delivered in Beijing on February 25, 1989, several months before the massacre in Tiananmen Square. It reads in part like a polemic against the “cultural-interpretive” approach Bell espouses.

As time goes on we are arriving at more and more universally valid concepts, ones that can be applied everywhere. . . . Human rights are such a concept. Human rights aren’t the property of a particular race or nationality. Every human being has from birth the right to live, to think, to speak, to find a mate. These are the most fundamental freedoms a human being has. Every person on the surface of the earth should have these rights, regardless of the country he lives in. It is actually a fairly recent idea in human history; in Lincoln’s time, only a century ago, it was just being recognized that black and white people should have the same rights. But we are now confronting just such an issue in China. The validity of human rights does not depend on the particular culture involved. Cultural biases are fine if you are not asking questions of right and wrong. You can like whatever kind of food you want to and so can I. This is a question of preference, not truth. Taste can be altogether a function of a particular place. But truth cannot. Truth doesn’t distinguish between localities.¹⁸

The philosophical point here is clear: human rights are something people are entitled to in virtue of their common humanity, and their universal validity transcends cultural particularity (i.e., they are not valid in virtue of features specific to any given cultural tradition). And if one reads the speeches, proclamations, pamphlets, letters, and posters of student protesters prior to the Tiananmen massacre, one finds countless declarations of a similar nature. The following statement from students at Beijing University is representative:

There is one universal and eternal truth: men are created equal. Therefore no one can enjoy privileges that others cannot. Everyone's rights are equal. . . . Laws are made by the people through joint discussion, and no one, no single group, has the power to make laws. Laws imposed on the people are illegitimate and unjust.¹⁹

What is striking is the extent to which the Chinese dissidents were reaching outside of their "own" tradition. They were "appropriating" the ideas of "Western liberalism" to express their political aspirations. As noted, Lizhi talks of universal concepts not tied to or dependent upon any particular cultural tradition. If fundamental "liberal-democratic" human rights are such a concept, then the fact that they are the product of a particular cultural tradition would be irrelevant: they would not be Western moral principles, but human moral principles. This, at any rate, is how they were viewed by the Chinese dissidents who risked their lives and died on their behalf.

NOTES

1. Daniel A. Bell, "The Limits of Liberal Justice," *Political Theory* 26, no. 4 (1998): 557-582. All page references to this review essay are provided in the text.

2. Brian Barry, *Justice as Impartiality* (Oxford, UK: Clarendon, 1995).

3. Charles Taylor, "The Politics of Recognition," in *Multiculturalism, Examining the Politics of Recognition*, ed. Amy Gutmann (Princeton, NJ: Princeton University Press, 1994), 62.

4. *Ibid.*, 59.

5. *Ibid.*

6. John Rawls, "The Law of Peoples," in *On Human Rights: The Oxford Amnesty Lectures 1993*, ed. S. Shute and S. Hurley (New York: Basic Books, 1993).

7. *Ibid.*, 68.

8. *Ibid.*, 62-63.

9. Rawls adds the qualification "as in a liberal society," because in what he calls a well-ordered "consultation hierarchy," "as members of associations and corporate bodies [persons] have the right at some point in the process of consultation to express political dissent and the government has an obligation to take their dissent seriously and to give a conscientious reply." *Ibid.*, 62.

10. *Ibid.*, 68-70. It is not entirely clear in Rawls's formulation whether he intends this principle to apply to all human rights; for example, persons only have a right to life or to emigration as members of some corporate body.

11. Will Kymlicka, *Multicultural Citizenship* (Oxford, UK: Clarendon, 1995), 157.

12. *Ibid.*, 82.

13. In saying this, however, I do not mean to endorse Kymlicka's broader view according to which liberty of conscience, and liberal freedom in general, are largely equated with a principle of individual autonomy. (See Kymlicka, *Multicultural Citizenship*, chaps. 5 and 8.) The "liberal individualism" I endorse is limited solely to that described in the text.

14. H.L.A. Hart, "Are There Any Natural Rights?" *Philosophical Review* 64 (1955): 175-91.

15. Jean-Francois Revel and Matthieu Ricard, *Le moine et le philosophe: Le bouddhisme aujourd'hui* (Paris: NiL editions, 1997).

16. Rawls, "The Law of Peoples," 68.

17. This presupposes, of course, that we already have a pretty good idea of what they are. I believe this to be the case, at least to the extent of knowing what the minimum basic human rights are. The burden of proof lies with those like Bell who support basic human rights norms while attacking liberalism's "parochial universalism." Bell does not even hint at what an alternate, non-liberal, "non-Western" conception of basic human rights might look like.

18. Fang Lizhi, speech made in Beijing, February 25, 1989, in *The Broken Mirror: China after Tiananmen*, ed. George Hicks (Chicago: St. James Press, 1990), xxiii.

19. "The True Meaning of Freedom, Law, and Democracy," student proclamation from Beijing University, April 25, 1989, in *China's Search for Democracy: The Student Mass Movement of 1989*, ed. Suzanne Ogden, Kathleen Hartford, Lawrence Sullivan, and David Zweig (Armonk, NY: M.E. Sharpe, 1992), 114-15.

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