

## RECENSIONESSÄ

### “Like travellers navigating an unknown terrain”: Seyla Benhabib on rights and the borders of belonging

Across many disciplines, including education, a certain love–hate relation has developed with globalization, swinging between hopeful exuberance and tragic lamentation, with many perspectives precariously balanced between the two. The particular contours of this relation have, of course, taken shape quite differently according to the specific issues arising out of the various disciplines, and have covered myriad issues such as the deleterious effects of global capital, the threats facing the natural environment, the opportunities afforded by information technology, the breaking up of the nation-state, and the hybridization of culture and identity, to name but a few. Not merely an academic matter, however, this focus on globalization has flourished in the context of current social movements and political policies that attempt to grapple with the broad range of conditions that mark civil life within and across borders.

Within political theory, there is a growing concern with how to define formations of political community in

light of the challenges brought on by increasingly multicultural, multiethnic, and multinational societies. With such cultural pluralism, nation-states in particular can no longer easily hold on to a unified identity based around a common ethnicity. Moreover, analyses of the current transformation of nation-states have also occurred in light of globalizing influences, such as the development of regional forms of governance (e.g., the European Union), the international human rights regime (e.g., various UN treaties and the European Court of Human Rights), and trans-national institutions (e.g., the WTO and IMF). Thus the complexity of articulating a cohesive set of questions that brings to the fore both the changing internal characteristics of states and the growing external pressures of globalization they face is daunting. The conditions and effects of globalization are elusive and their geography is by no means clear. As Seyla Benhabib (2004) notes, in trying to chart the as-yet-emerging political forms of globalization with old maps “we are like travellers navigating an unknown terrain” (p. 6).

Our conventional ways of understanding nation, citizenship, and community currently seem inadequate to

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Benhabib, Seyla (2004): *The Rights of Others: Aliens, Residents and Citizens*. Cambridge: Cambridge University Press.

the task of explaining the conditions of contemporary civil, social and economic life – they are old maps indeed. Why is this so? It is certainly not because cultural and ethnic diversity is a new element in the body politic, nor are great periods of migration entirely novel; and neither has trans-national politics emerged only in the past quarter century. Rather the newness of the problem emerges, it seems to me, as the old fictions of homogeneity upon which nations have been built have begun to unravel at the seams. That is, part of the West’s “social imaginary of modernity” no longer appears to offer stability to states. According to Charles Taylor (2004) social imaginaries are not simply ideologies that falsely imagine reality, but “they also have a constitutive function, that of making possible the practices that they make sense of and thus enable” (p. 183). In other words, they are inevitable fictions that all societies cannot live without. Currently, however, those social and political practices once sustained by the imaginary of homogeneity have actually altered quite considerably. For example, migration has had a tremendous impact on how nation-states who previously saw themselves as culturally uniform (in spite of evidence to the contrary) are actually challenging that imaginary through growing participation in the public sphere. What political philosophers are at pains to map is the nascent formation of these new practices through a different imaginary lens.

Such lenses, however, are not so easy to construct, and often old ideas are mobilized and refashioned in the service of opening up new possibilities. One of the major challenges for political theory has to do with issues

of civil belonging: how does one prevent the growing feeling of disenfranchisement among those who do not fit the “homogeneous” image of the nation, the violent manifestations of which we witnessed most recently across France? Responses to such dilemmas of citizenship within the changing features of the nation-state system have relied particularly on two old ideas. First, has been the problematic return to the traditional image of homogeneity – whether conceived of as a “people,” or an ethnic national identity – as a way of buttressing the commonality that has united the political community in the past and that has facilitated, to a large degree, the nation’s capacity to determine itself. Even though this myth might have been constitutive of a sense of national belonging, it no longer offers the stability it perhaps once did; social forces larger than national narratives of unity simply make this claim impossible to justify in a world where the question of membership within states is on the table precisely because these imaginaries no longer hold. A second response, one less troublesome in my view, but still not wholly without its problems, has been the turn to cosmopolitanism, which encapsulates the push for more expansive notions of belonging in a world where borders are becoming increasingly blurred – both because of the vast increase in migration and also because states are far less independent entities than they were, through free trade, political federations, international law, and human rights treaties. Also an old idea, current uses of cosmopolitanism nevertheless stake out a very different imaginary: citizenship based on an attachment and belonging to a

pluralist world. Yet, the issue for cosmopolitanism, as we shall see, is how to reconcile its attachments to global "universals," such as human rights, with its commitment to respect and value the "particulars" represented through diverse cultures and individuals.<sup>1</sup>

It is precisely this terrain navigated by Seyla Benhabib (2004) in *The Rights of Others: Aliens, Residents and Citizens*. Here is an attempt to offer a new political imaginary that, in my reading, takes issue with homogeneity, on the one hand, and grapples with the dual attachments of a cosmopolitan outlook, on the other. Originally delivered as part of the Seeley Lecture Series at the University of Cambridge, *The Rights of Others* represents an extension of some of her thinking in her earlier work, *The Claims of Culture* (2002). There Benhabib took on the challenges faced by liberal democracies in light of cultural conflict and what this means for cultural rights, gender, and citizenship. Not content with viewing cultures as homogeneous wholes, Benhabib moved beyond the rather stagnant debates between multiculturalists and certain democratic theorists. She resisted falling into a trite dichotomy that positions any concern with culture as hopelessly relativistic, on the one hand, and that views all universalism as being either entirely ethnocentric or absolutist, on the other. Instead, through her under-

standing of deliberative democracy as a dialogic engagement – an aspect of her work that I critically discuss below in relation to her more recent text – she focused on the democratic challenge to mediate between different forms of cultural meaning. In terms of her capacity to navigate boldly through debates which have become so polarized, she displays the same tenaciousness in her newest book. Indeed, her final chapters on citizenship and the post-national European scene in *The Claims of Culture* are really the departure points for *The Rights of Others*, so readers familiar with the former will recognize the similarity of themes and argumentative strategies in the latter.

In this most recent text, Benhabib (2004) addresses herself to the conditions of political community: how people come to belong and achieve political membership in the context of the current upheavals of the nation-state system and the vast migration and resettlement that is one of the hallmarks of the global era. As the title suggests, she is concerned with the rights of those who have been "othered" through the boundaries that states create, boundaries which draw distinctions between those who fully belong and those whose belonging is much more tenuous. Conferring citizenship (or not) signifies who is "us" and who is "other" within set territorial borders. Moreover it inscribes who has access to social and civil benefits and who is protected under which rights. Benhabib observes that at certain historical junctures the difficulties of political boundaries become more visible than at others – and this is one such time (Benhabib 2004, p. 18). Insightfully, Ben-

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1. I have elsewhere described the tensions within cosmopolitanism in terms of ambiguity, tracing it from Kant's famous formulation of cosmopolitanism in his essay "Perpetual peace." See Todd (forthcoming).

habib does not begin with seeing migration and the fraying of the powers of the nation-state merely as “problems,” rather she poses them as opportunities for rethinking issues of citizenship and global justice.

Migration, for Benhabib, is a key element for understanding political membership; for the difficulties faced by migrants put into sharp relief the conditions and meanings of citizenship in general. With the ever-expanding numbers of refugees, asylum seekers, and immigrants in countries around the globe (not only in the West), the time seems especially ripe to investigate the ways in which states determine membership, how people in foreign lands come to belong, and, most importantly, the conditions under which just practices of membership might develop. Thus her book is responding to what I see are urgent questions that states need to consider in developing policies that take seriously the pluralistic contexts they govern. And, of course, if one is talking about a state as a democracy, then the people who are governed ought ideally to be the same as those doing the governing. In this sense the question of who can participate and under what conditions gets at the heart of the democratic project.

Benhabib frames the tasks of her book in terms of two questions:

What should be guiding normative principles of membership in a world of increasingly deterritorialized politics? Which practices and principles of civil and political incorporation are most compatible with the philosophical self-understanding and constitutional commitments of liberal democracies? (p. 12)

In situating her response, she locates the boundaries of political membership within a dual context: First is that of the state’s right to determine who and under what conditions citizenship can be held, as well as defining which political and civil rights that those who are not full citizens are entitled to. Those seeking asylum, for instance, rarely have any access to political forms of participation and their rights are severely curtailed, whereas some immigrants who are granted permanent residence might enjoy limited benefits.<sup>2</sup> Thus within liberal democracies, the lines of membership remain to a large degree nationally determined. However, this is complicated somewhat by the second context: the trans-national one. This is, in effect, a deterritorialized context, one with no geographic borders yet one that implicates nations in the regime of international human rights through various declarations, treaties, covenants, and laws that afford protection to individuals against state power. Thus the issue for liberal democracies, in Benhabib’s view, is how they can deal with the conflict between exercising their sovereignty in defining the terms under which persons will be considered as members, on the one hand, and upholding the idea that all human beings should enjoy the same right to be members of a democratic polity, on the other. She suggests that we see the complex negotiation between “con-

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2. Benhabib (2004) has assembled comparative information on rights and benefits available to residents with varying status within EU countries. See pp. 157–161.

text-transcending" rights claims and democratic life in terms of "democratic iterations" (pp. 176–183). Drawing on Derrida's notion of iteration for inspiration, Benhabib sees that with every articulation, meaning is transformed, added on to, and enriched: there is no original meaning to which all iterations must conform (p. 179). Through "public argument, deliberation, and exchange" in both democratic institutions (legal and political) and civil society (the media, various associations) rights are contested, championed and repealed. Democratic iteration allows Benhabib to keep the political conversation open to pluralism, seeing every robust democracy as embodying a diversity central to the functioning of that democracy (a point that I think gets lost at times in the book, as I discuss below).

Viewing the *demos*, the political community, as separate from the *ethnos*, the collective cultural identity, Benhabib is thus deeply suspicious of attempts to resurrect the narrative of national unity or a Rawlsian notion of "the people" as a way of simplifying citizenship issues (indeed she devotes a significant amount of space to debunking John Rawls's project and other liberal positions; see Chapter 3). Her charge is that "the people," as it is invoked in Rawls's (1999) famous work, *The Law of Peoples*, fails to take into account the pluralism that inheres in any political body. For Benhabib, democracies are not holistic societies; "collective identities are formed by strands of competing and contentious narratives" (p. 82–83). Thus "we the people" – at least as a democratic call for self-rule and not as a signifier for a uniform identity – is merely always an

aspiration and in no way descriptive of democratic societies.

[Instead,] the unity of the *demos* ought to be understood not as if it were a harmonious given, but rather as a process of self-constitution, through more or less conscious struggles of inclusion and exclusion (p. 216).

In this sense, I interpret her here as trying to move beyond the imaginary homogeneity that has largely supported national political projects, even democratic ones. However, her criticisms do not lead her to embrace a full-blown cosmopolitanism that would dismiss the centrality of the state in making decisions about political membership in favour of diffuse (and some would say meaningless [Bauman 1999]) notions of global citizenship. Viewing the state as central to the flourishing of democracy which can ensure the political participation of individuals at a more local level, she is firmly entrenched in the idea that states still need to have a strong say as to how they grant citizenship rights to individuals within their borders. Nonetheless she is committed to a cosmopolitan outlook in the sense of providing an overarching framework of rights to which states must be held accountable in pursuing their laws and regulations regarding political membership. Her navigation points, then, are positioned between the sovereignty of the state and international human rights, and she charts her response to her initial questions between them, through the idea of a cosmopolitan federalism.

Benhabib's version of cosmopolitan federalism largely grows out of

Immanuel Kant's view of cosmopolitanism as expressed in his 1795 essay, "Perpetual peace." Her reading of Kant is an astute rendering of the significance that the right for all to be granted hospitality on foreign soil has for the contemporary world. Kant's third article for perpetual peace reads: "Cosmopolitan right shall be limited to conditions of universal hospitality;" Kant is careful to explicate that with respect to hospitality we are "concerned not with philanthropy but with *right*" (Kant 1795/1991, p. 105). Benhabib quite rightly makes much of this third article and of the fact that Kant proposes that the right to hospitality is a right of humanity – one that all possess by virtue of being human. Kant establishes a metaphysical justification for this right to hospitality. But this right is a long way off from being applied to the question of granting full membership to the foreigner. For Kant, the hospitality afforded to the stranger as a visitor does not automatically translate into granting permanent residency: "He [the stranger] may only claim *right of resort*" (p. 106). One of the limits, then, as Benhabib understands it is that hospitality concerns relations between individuals who already "belong to different civic entities yet who encounter one another at the margins of bounded communities" and does not refer to those who occupy the same civic entity (Benhabib 2004, p.27). Thus the stranger is already a citizen elsewhere. Moreover, Kant claims that it is only through the beneficence of the state that full rights of belonging are to be granted to the stranger. In other words the state is neither legally nor morally bound to confer such belonging – it is only morally bound to

provide a hospitable environment to the stranger. What his work does emphasize, though, is that the best way for countries to ensure peace between themselves is to form republican constitutions that adhere to the principle of cosmopolitan right. As Benhabib shows quite clearly, Kant articulates for the first time a "liberal understanding of sovereignty" (p. 42) whereby the internal constitutions of states are subject to international requirement.

This is key to Benhabib's entire development of cosmopolitan federalism as a response to the issues of membership. The major difference with Kant is that she rereads the sovereignty of states as being *morally bound to extend full membership* to all residents (p. 42). To make her case she must a) establish that membership rights are universal rights; and b) clarify how democracies are to go about fulfilling this universal task without abrogating their self-rule, what she refers to as the "paradox of democratic legitimacy."

Benhabib explores Hannah Arendt's work in order to refine her views on the relation between membership rights and human rights. In *Origins of Totalitarianism*, Arendt grapples with the difficulties of stateless persons and draws the conclusion that all people have the "right to have rights." It is worth quoting the original from which Benhabib draws her analysis:

We become aware of the existence of a right to have rights ... and a right to belong to some kind of organized community, only when millions of people emerge who had lost and could not regain these rights because of the new global political situation ... the right to have rights, or the right of



every individual to belong to humanity, should be guaranteed by humanity itself. It is by no means certain whether this is possible. (quoted in Benhabib 2004, p. 55)

Benhabib's gloss on the phrase, "the right to have rights," is particularly incisive in laying bare the two different aspects of rights implied here. Benhabib reads the first use of the term right as "*a moral claim to membership and a certain form of treatment compatible with the claim to membership*" (p. 56). The second use refers to the rights already possessed by a member of a political community. Although the moral claim to be recognized as a rights-bearing person is universal (that is, it transcends all borders), Benhabib points out that in Arendt's case this was not due to some metaphysical properties of humanity (contra Kant). Arendt instead offers a political solution to recognition: it is only through political community where the right to have rights might be realized (p. 59). Indeed, in the last sentence of the quote above, Arendt doubts that humanity itself can secure the recognition required to be entitled to rights. At the end of the day, Benhabib sees Arendt's reliance upon political community as just as dissatisfying as Kant's failure to extend hospitality to include full membership, for it relies on the "historical arbitrariness of republican acts of founding whose ark of equality will always include some and exclude others" (p. 66).

While her reading of both Kant and Arendt critically appropriates the key terms of "right of humanity" and the "right to have rights," Benhabib attempts a "postmetaphysical justification of the principle of right" (esp. pp. 131–134) in

order to circumvent the problems she sees in their positions. In putting forth a cosmopolitan federalism, she is attempting to secure a *moral reason* for states to confer full membership to those who reside within their borders, without sacrificing the democratic ability of a political community to define for itself what it thinks best. The rights of others in this view must always occur within the paradox of democratic legitimacy – that is, the irresolvable conflict that arises when the sovereign of democracy ("we, the people") is legitimated by an act of constitution that itself conforms to universal human rights. Her attempt to universalize membership rights lies in her proposal of a discursive ethical position:

I can justify to you with good grounds that you and I should respect each others' reciprocal claims to act in certain ways and not to act in others, and to enjoy certain resources and services (p. 130).

Here is where the universality of respect appears alongside egalitarian reciprocity as the metanorms that guide discursive practice in democracies (p. 13). What she reveals here, though, is an unjustified appeal to these universal norms via discourse ethics that then serves as the justification for her claim that membership rights are universal. This position, however, fails to appreciate fully and bring to logical conclusion her otherwise compelling argument in favour of the rights of others and the notion of democratic iteration that, in my view, better support her cosmopolitan federalism.

Admitting that objections have been raised with respect to the *petitio*

*principii* of discourse ethics, she nonetheless defends her position in terms of the right to justification.

Your freedom can be restricted only through reciprocally and generally justifiable norms which equally apply to all (p. 133).

So now what we have is a translation of human right into discursive right. The postmetaphysical justification of rights discourse turns out to be the right to justification itself. My problem with this is not only the circularity of the argument – one has to accept the justificatory universal metanorms of respect and egalitarian reciprocity without justification; the principle of right is thereby turned into an unjustifiable principle of justification – but has to do with the fact that I think the other has been forgotten in her appeal to freedom as a *reciprocal* grounding of rights, and as a result the specifically political aspect of her work is undermined. That is, while she asks the right – and demanding – questions of political belonging, and insists that the “others” who are the products of liberal democratic political boundaries need to be heard and attain some measure of democratic participation, she fails fully to radicalize this idea. By not pushing the envelope further, she takes much of the political edge off the struggles over belonging. I do not buy the argument – particularly as it is here used as a justification – that convincing the other of “the validity of norms” with good reasons constitutes the basis for a vibrant political discussion, particularly when it is precisely these norms that are politicized – that is, concretized through

democratic iterations. This seems to me inadequate for addressing the complexity of membership issues, especially when all norms get subsumed under discourse ethics:

norms whose origins may lie outside discursive processes ought to be discursively justifiable, when and if called into question (p. 133).

The moral universalism she is bound to through her version of Habermasian discourse ethics (e.g., with respect to reciprocity) reduces communication with the other to a rational mode of justification to which both parties must subject themselves. In my view, the danger she faces is that if we place too much emphasis on moral universalism both for human rights and in terms of the communicative grounds of democracy, there is a diminishment of the political in terms of the inevitable struggle over how to make abstract principles meaningful in specific civic contexts (whether we are speaking of how membership rights are made meaningful, or of the very meaning of respect and egalitarian reciprocity that inform communication for Benhabib). But, even more importantly in my view, there is a diminishment in understanding what communication with the other entails – particularly those others, such as refugees and asylees, who have limited room to speak – and to be listened to.

Not that rules for communication are systematically unimportant, but it seems to me that not only does political discourse suffer if it becomes programmatic, it also fails to consider that communication with another human being is not simply procedural, nor can



it always be about reciprocity and mutuality. My relation to another's discourse is necessarily asymmetrical because it is the *other* who speaks; what she says can never totally capture her otherness, and neither can my understanding of her speech. Engaging in discourse, then, is a response not only to the words she speaks (the said) but to the difference she reveals (the saying). It is here that Emmanuel Levinas, for instance, has located the emergence of responsibility as a response to the other. Thus, even in our striving for understanding and mutuality we risk undermining the very difference that makes dialogue inevitable in the first place. As Robert Gibbs (2000) has commented on his own reading of Levinasian responsibility to the other in relation to Habermasian discourse ethics:

Were the sequence of our presentation to become a simple narrative, that is, first we must respond, and then subsequently we learn to converse, to take turns and exchange interpretations, reasoning toward a consensus; then we would misunderstand the ways signs work. All use of signs involves both functions, both asymmetrical responsibility and a goal of mutuality that can never leave behind the asymmetry (p. 146).

What I would like to suggest is that returning to the other as the fulcrum for Benhabib's argument on the communicative aspects of democracy would radicalize the potential for democratic practices to take alternative forms, ones that would truly take issue with the impossible task of seeking universal rules of justification as the

only desirable means for our ability to listen to others. Indeed, Iris Marion Young (2000), drawing on Levinas, has proposed that the moment of greeting is a moment of public acknowledgment, where response to the speaker is much less about rules and more about the recognition of difference (pp. 57–59). How might, then, communication itself be understood in terms of its plurality? It seems to me that this would require resisting the tendency of discourse ethics to subsume participants into regimes of universalism that already delineate the ground of meaning; it also invites us to see discourse as itself a revelation of difference through which meaning is created and re-created – which is, after all, a key element in a robust political sphere. I think Benhabib actually contributes to this radicality through her notion of democratic iteration (which indeed is very much about difference), but seems to back off from its full implications. Through iteration, we can see the other as participating in various discursive strategies, all of which do not fall under the regime of universalism embodied in discourse ethics. Indeed, I think if we heed Derrida's (2002) call for politics to work the contradictory spaces of hospitality, democratic iteration is crucial, for it compels us to examine the implications of our iterations in relation to what meaning – and value – we are granting to rights; and what meaning and value we are granting to the other to have such rights. In fact, I see this as Benhabib's main challenge. And in terms of education specifically, her focus on both democratic iteration and the other as central to cosmopolitan federalism leads to a number of questions that I think capture the global di-

lemmas of education: How does education participate in the drawing of boundaries of political community through citizenship education? How might education participate in the creation of a hospitable ethos in which the question of rights is less about self entitlement and more about securing the rights of others through political struggle? How might the debates in and about education be seen in terms of democratic iterations, that is as sites of lively political struggle that wrestle with meaning? What responses to these questions require, first and foremost, is a commitment to travelling into uncharted terrain knowing that our navigation points will never get us exactly where we want to be.

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