

Bringing Politics (and the State) Back Into Global Justice Theorizing

Carol C. Gould, *Globalizing Democracy and Human Rights*
(Cambridge: Cambridge University Press, 2004)

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Carol Gould's *Globalizing Democracy and Human Rights* is an ambitious work of social theory that brings normative democratic theory to bear upon the prospects for extending democracy and human rights globally. Writing in the tradition of critical social theory, Gould discerns from contemporary social developments the potentiality for social transformation. Thus, her hopes for extending human rights and democracy within and across state boundaries is grounded in her claim that the growing interdependence of economic, cultural, and social relations is engendering "inter-societal" relationships and norms. Those working across borders on common emancipatory projects (be it fighting trafficking in women; global warming; or cross-border labor exploitation) advance cross-border demands for democratic voice in the decisions that affect them and over the common projects in which they engage.

Gould's initial chapter attempts to resolve the seeming circularity of the relationship between democracy and human rights. Gould believes that neither discourse, deliberative, nor Rawlsian conceptions of democracy establish a sufficiently independent status for human rights. Gould wishes to establish an independent basis for human rights, so that it can stand against claims that democratic decisions are inherently just. The conundrum of the "constitutional circle" is that while rights must constrain the democratic process if human liberty is to be affirmed, the authority of constitutional rights themselves derives from a democratic process of adoption. If this be the case, then one seemingly cannot establish an independent status for rights apart from democratic practice. And if democratic practices themselves are equivalent to justice itself, then how can we determine that democratic decisions that violate individual or group rights are unjust. Gould grounds the independent status of rights in the "quasi-foundationalist, but non-essentialist conception of rights" that she developed in her previous work on "social ontology." Gould argued in *Rethinking Democracy* and *Marx's Social Ontology* that while there does not exist a transcendent moral reality that justifies human rights, cross-cultural social practices ("individuals-in-relations") justifies "human freedom as the exercise of choice in pursuit of long-term projects and the development of abilities." It is this ("quasi-universalist") concept of

human freedom that independently justifies democracy as the only form of just decision-making over matters that bind or affect individuals. Freedom also justifies "positive and negative" rights as guaranteeing the possibility of free choice and the effectiveness of such choices.

Gould is not just concerned with a seemingly technical conundrum of analytic philosophy. She attempts to get at the philosophical underpinnings of a real world dilemma: if democracy and human rights are inter-dependent, then how can global, regional, or national institutions hold democratic governments accountable to external criteria of human rights. In other worlds, unless we can establish some global consensus on the independent value of human rights, it will be difficult to construct regional and international institutions that enforce such rights against both democratic and non-democratic states and transnational institutions.

But is this dilemma solvable by philosophy alone? If the commitment to rights is not embedded in the dominant cultural practices of a polity or association, it will be difficult to impose them from without. Rigorous philosophical and political argument—particularly cross-cultural dialogue sensitive to internal cultural resources on behalf of democracy and rights—can expand the circle of those committed to human freedom. And we can take some heart from an emergent (but far from realized) international consensus in favor of external intervention against genocide. But even if international troops enter Darfur and stop the genocide, if the cultural relations among nomadic Arab tribes and agrarian African tribes are not voluntarily reconstituted in a just direction, massive injustice might return once foreign peacekeepers are withdrawn. The same may be true for the future of Kosovo and Bosnia. Given the unwillingness of most to live for long under the governance of foreigners, we can't imagine permanent occupations by external enforcers of human rights. Thus, Gould's work somewhat under-addresses the realist conundrums of international human rights theory. She takes heart from the European Court's ability to enforce human rights decisions within Europe. But we are far from the achievement of such a human rights consensus in any other region of the world. And the expansion of the European Union (EU) into the former Eastern

Europe and Turkey may pose limits to the effectiveness of its human rights regime.

Gould is not unaware of Robert Dahl's assertion that one cannot achieve a liberal democratic society absent a liberal democratic cultural consensus. This awareness is what leads Gould to stress the need for "inter-sociative" development of regional human rights cultures. Gould is wary of world government both for its utopian unreality and for the dangers it would pose for cultural diversity. But those who share Gould's commitment to civil, political, and social rights, realize that establishing such rights involves political struggles to change the practices of particular states. Radical democrats in the United States have yet to achieve the basic social right of universal and affordable health care. This is, in part, because of the distribution of material, cultural, and ideological power in the United States. No matter the strength of our moral arguments in favor of social rights, it will take the reconstitution of American political culture to achieve such rights. If, for example, state policies and political ideology make strengthening the labor movement difficult, we may need to spend as much time strategizing about how to enhance labor rights as we do sharpening our normative arguments on behalf of rights. Not that Gould would disagree; but social theory must analyze the balance of social and political forces and query how they can be redressed in a democratic direction.

Gould is a democratic pluralist and a socialist; as a pluralist she is concerned about whether her commitment to the universal values of rights and democracy will be perceived as the imperialism of particularist, Western values. She tries to avoid the "foundationalist" fallacy of grounding values in some natural "fact" about an unchangeable "human nature. Rather, she grounds her conceptions of human freedom in the reality that across cultures people attempt to develop their potentiality and that of those close to themselves. Gould affirms Kant's and Arendt's belief that humans have the capacity to transform their care for particular others into an empathetic recognition of the right to self-development of those further from their immediate experience.

In contrast to post-modern influenced theorists who disparage the universal, while affirming particular forms of identity, Gould recognizes that democratic pluralism depends on a commitment to both diversity and solidarity. Thus, she defends the value of culture as a system of meaning that enhances individual development; but she does not reify cultural communities into entities that have rights of their own. If a culture violates human rights, then external intervention on behalf of human rights is justified. (How effective external intervention can be enforcing human

rights is an issue I come to shortly.). While recognizing that women, the disabled, or groups that have suffered historical discrimination may merit particular policy initiatives to address their particular needs, such differential policies are in the service of the equal respect of persons. Gould comprehends that democratic conceptions of justice invariably must reconcile universal norms with the particular needs and practices of individuals and groups. She draws on Arendt's belief that to think morally is to generalize from the exemplary validity of a particular to general principles. She recognizes that applying laws or rules to particular cases invariably involves "the casuistic interpretation of the general for particular cases." That is, in order to achieve equal treatment and respect, groups with particular needs and histories may merit differential treatment.

But Gould perhaps protests too much that she is not offering a cross-cultural, universal conception of rights. For her commitments clearly derive from a post-Marxist, socialist belief that a universal potential for collective self-determination reveals itself within daily struggles for emancipation across the globe. That is Gould takes sides in the conflict over

whether universal conceptions of rights derive from an imperialist, Western, "enlightenment" conception of the universal; one that its opponents claim invariably masks a particular conception of human domination. Gould defends "quasi-universalist" principles that are, in reality, universalist and culturally non-relative. Otherwise, Gould could not make the arguments she does against clitorrectomy, marital rape, sati, and the compulsory wearing of the veil—regardless of whether a majority of women in such cultures may embrace such practices. Gould would invariably look for signs of covert resistance against such practices. And she likely would aver that if fully exposed to alternative practices, many women would embrace an alternative life style that enhanced female self-development. Gould would hope, as would most feminists coming out of a moral realist or Habermasian tradition, that once informed about the pain, health dangers, and restriction of sexual pleasure brought on by clitorrectomy most "truly autonomous" women would choose to abandon such a practice.

To avoid the charge of cultural imperialism, advocates of justice for women point to courageous women in those cultures who fight (or flee) these practices. After all, militant advocates for civil rights often start off as a minority within communities historically subject to physical coercion and ideological domination. But is not Gould implicitly endorsing those who fight for human rights and liberal democracy as fighting for a better way of life regardless of what the majority of a given culture currently thinks? How else could she

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argue—as she does—that no regime (no matter its level of popular support) has a right to violate basic human rights. Gould looks for those resistant from within, but what if such resistance does not come? Amartya Sen has shown how liberal and democratic resources can be found within Indian and other non-Western cultures. But as Sen readily admits, such conceptions are contested. Those who favor rights regimes as necessary for the institutionalization of human freedom believe that individuals would choose conditions of “free choice” support individuals and groups struggling for such rights. And we favor structuring national, regional, and international economic, legal, and political regimes so as to favor (or at least provide incentives) for regimes to obey basic human rights.

The argument that Gould’s conception of civil, political, and social rights is a form of Western cultural imperialism is refuted by the reality that the Brazilian, South African, Indian, Korean and other social, political, and labor movements across the non-Western world embrace those values (while simultaneously opposing Western cultural and economic imperialism). But we also must realize that advocates for greater freedom in cultures different from secular democratic ones may not favor the same array of social, political, and religious rights that radical democrats do—particularly in regards to the separation of religion and the state. (Even in our own country, this separation is increasingly contested.)

Gould is critical of Michael Walzer’s belief that non-democratic regimes that do not violate the basic civil rights of religious or cultural minorities may need to be tolerated in a pluralist world system. But even Walzer’s hope to institutionalize basic civil rights—the right to conscience and bodily integrity for social minorities—remains a radical goal for our very weak global human rights regime. Living in the United States, one recognizes that the near-universal democratic view that social rights enhance individual freedom has small purchase within our political culture. Philosophical arguments in favor of the integral relationship between social rights and political rights provide intellectual heuristics for political activists combating the dominance of neo-liberal ideology. But such arguments are not trumps with magical powers. In order to convince a majority of Americans to embrace national health care (let alone adopt more solidaristic international economic, foreign aid, and diplomatic policies) radical democrats would have to reconstruct a political movement capable of taking on the ideological dominance of marketplace individualist conceptions of freedom that underpin not just conservative, but also centrist political hostility to an activist, democratic, and accountable state.

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Gould’s work is a sweeping, imaginative analysis of how transnational movements of labor, feminist, and cultural rights activists are trying to institutionalize a “social ontology” of freedom. Her use of the term “quasi-foundational” indicates her recognition that all human beings do not immediately embrace her vision of freedom. I share Gould’s hopes that if people have the ability to consider such a vision of autonomy, many would embrace it (but that remains a question I hope we can increasingly test empirically). But the slow boring of hard boards on behalf of such a politics necessitates day-to-day political work. And that

work remains problematic in a world where most states do not enforce basic civil rights. Thus, as much as radical democrats favor an expansive conception of civil, political and social rights, we should not be surprised that Amnesty International and other human rights groups try to establish an international consensus in favor of the minimal classical liberal rights to life, liberty, and freedom of expression. Note that Amnesty International’s statement of principles never mentions the right to a democratic political system, let alone expansive social rights.

Unlike many global justice theorists, Gould neither romanticizes the possibilities of global social movements nor does she ignore the major role nation-states are likely to continue to play in structuring international regulatory, human rights, and economic ‘regimes.’ But for someone who comes out of the radical and democratic Marxist tradition, sometimes the stark realities of power relations seem to take a backseat to normative hopes. For example, to take on the power of global capital there will need to be both a revival of the labor movement in advanced industrial societies but also a nurturing of the power of labor in the developing world. But, even so, absent these movements vying for state power and achieving it both in the advanced and developing world, there is little hope of transforming global financial, regulatory, and human rights institutions in a manner that will empower democrats-from-below. Gould gives due weight to feminist and environmental movements cross-borders, but transnational labor and political party cooperation is probably more the key to transforming global economic and human rights regulatory regimes.

Meanwhile, radical democrats must work to bring to power national governments that can reshape international institutions in directions that promote human rights and equitable development. Such an effort requires greater cooperation among social movements fighting to reconceptualize gender, sexual, cultural, and environmental policies. Exactly how such regional “inter-sociative” networks can compel states to adopt

national, regional, and trans-national policies that enhance such rights is somewhat underexplored in Gould's work. Perhaps this is the case because the left's strength remains uneven across the globe; even where the left has regained some regional power (as in much of Latin America, for the time being), these government's policy options are constrained by the power of transnational capital and the global regulatory institutions that serve those interests. But rebuilding an internationalist left that uses state power to construct transnational institutions that promote political, civil, and social rights remains an epochal task that is in its infancy.

Advocates of greater global justice invariably point to the European Court and the social compact of the European Union's "social compact" as pre-figurative institutions of regional justice. This is an implicit admission that the strength of democratic

trade unions, social movements, and left political parties remains central to the building of regional institutions that level-up, rather than push down, global environmental, economic, and human rights standards. To do so, will involve not only the popular dissemination of normative arguments in favor of democracy and human rights. It will also involve the reconstruction of political movements that can provide national and regional institutional life to such a vision.

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