Chapter 4

Culture and Context in Human Rights

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Notwithstanding their European origins, human rights today represent the universal language in which global relations can be normatively regulated. In Asia, Africa, and South America, they constitute the sole language in which the opponents and victims of murderous regimes and civil wars can raise their voices against violence, repression, and persecution, and against violations of their human dignity. But as human rights have won acceptance as a transcultural language, disagreements between cultures over their proper interpretation have also intensified. Insofar as this intercultural discourse on human rights is conducted in a spirit of reciprocal recognition, it can also lead the West to a decentered understanding of a normative construction that is no longer the property of Europeans and may no longer exclusively reflect the particularities of this one culture

Habermas 2006:155.

Introduction

Human rights are moral, legal, and political devices for protecting the dignity, well-being, and survival of human beings. As such they are directed against oppressive powers that seek to undermine and attack these same basic human values. Because their intended use is directed against power, human rights must be understood not as abstract and timeless principles but as urgent calls to action in the face of specific threats. The universality of human rights may be justified by ethical arguments and claims about human nature, but these necessarily appeal to particular cultural notions of morality and personhood. In practice, human rights are legitimated by social, political, and legal institutions that are part of an emerging global civil society (Benhabib et al. 2006). Diverse nations and peoples participate in this global system but they retain their own local cultures and social contexts through which they interpret and apply human rights laws and arguments (Nash 2009). Any discussion of the universality of human rights therefore requires careful attention to the diverse contexts of their application.

The respect for individual autonomy at the heart of human rights is intended to speak directly to the forms of power that threaten to silence and efface the vulnerable individual (Turner 2006). This emphasis on protecting individual autonomy has led some to argue that human rights do not

apply to cultures or societies that do not embrace the ideology of individualism. Beyond this, some have argued that human rights rhetoric and institutions are themselves agents of Westernization. However, the need to protect individual autonomy against oppression is more basic than any cultural preoccupation with individualism. As Ignatieff has cautioned:

> Relativism is the invariable alibi of tyranny. There is no reason to apologize for the moral individualism at the heart of human rights discourse; it is precisely this that makes it attractive to dependent groups suffering exploitation or oppression (Ignatieff 2001:74–75)

At the same time, many forms of oppression are not targeted at individuals; there have been many systematic attempts to marginalize, exclude, subjugate, or annihilate whole groups or peoples. Other forms of persistent social inequity and injustice arise from economic arrangements that aim to maintain the advantage of some at the cost of many. Human rights language and legislation have been employed to counter these forms of collective oppression and structural violence to seek redress and social change.

This chapter will address three broad questions basic to the cross-cultural applicability of human rights in the domain of psychiatry: (1) Do the theory and practice of psychiatry and other mental health disciplines apply across disparate cultures? (2) Are human rights principles in general universally applicable? and (3) Are human rights principles specifically applicable to mental health issues across cultures?

Culture in a globalizing world

There are four main contexts that raise questions about the cross-cultural applicability of human rights in mental health: (1) *internationally*, that is, across national political or geographic boundaries; (2) within *culturally diverse societies* that contain ethnocultural or other minority groups, whether as a result of migration or the formation of nation states; (3) with respect to *indigenous peoples*, who form relatively homogeneous societies that have been engulfed by colonizers and settlers, and that have faced repeated displacement, marginalization, and forced assimilation; and (4) among *refugees and displaced peoples* who find themselves forced to flee for their lives and who occupy marginal or extra-territorial spaces, in refugee camps or in transition, while they struggle to gain a foothold in a new land. Human rights are crucial to the protection of individuals, communities, and peoples in each of these contexts and, in each case, cultural issues arise in the application of human rights and in the assertion of specific rights claims for vulnerable groups or minorities. However, each context involves different uses of the concept of culture. Of course, diversity has a much broader definition than culture including, for example, differences in age, gender, sexual orientation, and bodily experience (e.g. the disabled or chronically ill, deaf culture). However, all of these distinctions, no matter how deeply rooted they are in biology, are framed in terms of cultural values and concepts.

Within each geographic region or society as well as in the larger contexts of global society, various minorities or distinctive groups are defined in terms of language, ethnicity, religion, race, and other shared or assigned characteristics. These distinctions are based on a particular history that gives rise to a set of social categories and institutional practices through which individuals identify themselves, form communities, or are grouped together by others. While this cultural-historical basis is obvious for ethnicity, language, and religion it applies as well to race and to other forms of social categorization For example, some of the distinct ethnic or cultural groups in Africa and other regions owe their current boundaries and definition in part to European colonial powers that imposed distinctions based on racialized categories. Race is a culturally constructed category (though it may use biologically influenced variations in appearance as social markers)

1 because the choice of categories, the ways of assigning people to these categories, and the uses of
2 this distinction are all determined by cultural practices. The meaning of these categories changes
3 with social context, but racial categories have usually been imposed by a group or society to justify
4 its domination, exploitation, or annihilation of another group (Fredrickson 2002). Challenging
5 such discriminatory practices is a basic function of human rights.

6 Until recently, discussions of culture in the mainstream literature on human rights tended
7 to work with a view of cultures as closed, static, homogenous systems, which produce individuals
8 who are culture-bearers and whose behaviour is largely determined by shared cultural models,
9 values, and perspectives (Eriksen 2001). This approach has been thoroughly critiqued on the
10 grounds that it reifies and essentializes cultures and stereotypes individuals while exaggerating the
11 homogeneity of culture (Freeman 2002; Preis 1996; Wilson 1997). Contemporary anthropological
12 approaches insist that 'culture' names a process, not a thing, and that cultural knowledge and insti-
13 tutions are part of open, fluid, dynamic systems with much internal variation, conflict and contesta-
14 tion (Kuper 1999). Individuals draw from culture to construct their identities and, in the process
15 they may challenge and reshape cultural practices. Increasingly, there is intermixing of cultural
16 systems giving rise to new hybrid forms of identity; this process has been accelerated by globaliza-
17 tion (Kraidy 2005).

18 Theorists of multiculturalism have recognized this dynamic view of culture; however, in many
19 cases they still identify culture with a more or less localized community. For example, Kymlicka
20 offers this definition of culture: 'The sort of culture that I will focus on is a societal culture—that
21 is, a culture which provides its members with meaningful ways of life across the full range of
22 human activities, including social, educational, religious, recreational, and economic life, encom-
23 passing both public and private spheres. These cultures tend to be territorially concentrated, and
24 based on a shared language' (Kymlicka 1995:76). In this view, culture is synonymous with a society
25 or a people, but the contemporary world offers many compelling hybrid cultures, subcultures, or
26 delocalized cultures maintained through transnational or virtual networks.

27 Although the notion of culture is an abstraction that describes a complex dynamic system, there
28 is a strong tendency in human perception to reduce culture to ethnic stereotypes. Cultural stereo-
29 types can have the same invidious effects as racial stereotypes. The conceptual difficulties with
30 notions of culture and their history of abuse, have led many to argue that it would be best to dispense
31 with the idea of culture entirely (Phillips 2007). However, this is problematic for scientific, moral,
32 and political reasons. Scientifically, it is clear that we are cultural beings, requiring culture to achieve
33 our full functioning. The human brain is essentially an organ of culture, and the ways in which we
34 become ill reflect culture as much as biology (Kirmayer 2006; Wexler 2006). Morally, since culture
35 is the source of our individual values and the means by which we organize communities, recogniz-
36 ing culture is essential to recognizing and respecting each other's commitments and concerns.
37 Finally, every political system, no matter how much it strives for equity privileges some groups while
38 ignoring or disadvantaging others. Acknowledging the domain of culture and recognizing specific
39 ethnocultural groups are essential to identifying and correcting these biases and inequities.

40 ## Psychiatry across cultures

41 The first question concerns the extent to which mental health principles and practices are appli-
42 cable across cultures. Our ability to answer this question is limited by the available research, which
43 is generally framed in ways that minimize the possibility of identifying salient cultural differences.
44 In much international psychiatric research, culture is conflated with geographic region or nation.
45 Thus, the World Health Organization has coordinated studies on schizophrenia, depression, and
46 common mental disorders in primary care based at centres in several countries and, despite the

absence of measures of cultural identity or practices, this is sometimes presented as information about cultural diversity. In the US, membership in large, heterogeneous, 'ethnoracial blocs' defined by the census (i.e. African American, Asian American and Pacific Islander, Hispanic, American Indian and Alaska Native, White), is often taken as a proxy for culture (Hollinger 1995). While it may serve the political purposes of identifying health service needs among socially demarcated groups, this type of research does not engage with cultural variation at a level where specific mediators can be identified. A more fine-grained understanding of culture is required to unpack the elements relevant to any specific mental health problem. Without this contextualized under-standing of human strengths and vulnerability, we are left with a 'one-size-fits-all' approach that is a form of one-sided cultural proselytization or imperialism that silences dialogue and exchange (Alegria, Atkins, Farmer, Slaton and Stelk 2010; Gone and Kirmayer 2010).

Nevertheless, there is evidence both for universal aspects of mental health and illness and cul-ture-specific dimensions that require adaptation of conventional models and practices developed in Euro-American contexts. Clinical, epidemiological, and ethnographic research has provided evidence of significant variation in the causes, course, symptoms, treatment, and outcome of men-tal disorders across cultures (Kirmayer 1989; Kleinman 1988; López and Guarnaccia 2000). While the disorders enshrined in official nosology can be detected in every culture where they have been sought, their prevalence varies widely. This may reflect methodological difficulties in applying diagnostic criteria as well as genuine variation in rates due to the influence in genetic, environ-mental, and social factors that influence incidence and course. As well, there is strong evidence for the cultural shaping of symptom experience and clinical presentations that can make it difficult to apply diagnostic criteria. There are many culture-related symptoms and syndromes not captured by official diagnostic nosology that may be a focus of concern for patients and contribute to dis-tress and disability. Finally, and most importantly, the meaning of symptoms, illness, and suffering varies according to available cultural models and metaphors for affliction and this, in turn, is a major determinant of the individual and social impact of mental health problems.

Across cultures, people with severe mental illness are generally vulnerable to stigmatization and social exclusion (Fabrega 1991). Psychiatric diagnosis and treatment can both cause and mitigate the social processes of labeling and exclusion. However, the dynamics of labelling and stigma, and subsequent integration or exclusion, depend on cultural systems of meaning and social practices (Angermeyer et al. 2004). For example, in many parts of the world, some forms of psychotic expe-rience may be viewed as divinely inspired, and the individual as having received spiritual gifts (Kirmayer et al. 2004). This may contribute to good outcome with potentially self-limited psy-chotic disorders. Replacing a religious explanation with an account in terms of disturbed brain chemistry may justify biomedical intervention but undermine the positive meanings and social support mobilized through religious or sociomoral explanations. At the same time, religious explanations may expose individuals to disturbing and disorienting interventions and, when these methods fail to achieve a cure, those afflicted may be blamed for their conditions and rejected. Mental health services can offer safe haven and advocate for individuals subjected to this moral blame, marginalization, or ostracism.

Psychiatry and human rights

The international institution of human rights built on earlier civil rights and liberties that emerged in Europe in the 18th and 19th centuries along with changing notions of the person and recogni-tion of previously marginalized groups as sharing a common humanity (Hunt 2007). Nickel (2007) identifies six broad sets of human rights: security, due process, liberty, political participation, equality, and welfare. The last of these sets of rights speak directly to health—welfare is the basic

goal of systems of health and healing, and equality is indirectly related to welfare in terms of equity. Social inequality itself is an important cause of illness (Marmot 2007). In the domain of psychiatry, human rights issues arise in several ways, each of which is shaped by local cultures.

Human rights aim to promote, preserve, and protect the well-being of the individual. By acting to restore individuals' functioning, mental health practices can therefore be an enabler of basic rights. Psychiatry aims to advocate on behalf of people with mental illness and invoking their human rights is one potentially effective strategy to promote social change. The problem of stigma, for example, can be framed as essentially a human rights issue of equality for people with disabilities or special needs. Classifying problems as 'psychiatric' may confer stigma and disqualify the moral autonomy and agency of the individual who is viewed as 'mad'. Insisting on a mental illness interpretation of a problem that was previously understood purely in religious or sociomoral terms can be liberating or debilitating depending on the cultural and social contexts and consequences.

Psychiatric research can document social and political situations that put people at risk for mental illness and identify the need for protection of human rights (e.g. detention of asylum seekers, oppression of women in patriarchal societies, vulnerability of children to sexual exploitation by adults, or the impact of child labor on development). This evidence can support efforts at advocacy for vulnerable individuals or groups. Psychiatric treatment, particularly psychotherapy, may offer possibilities for increasing individuals' agency and empowerment. This may allow individuals facing oppressive circumstances to assert their rights for autonomy either within the system or through some form of exit or escape.

Institutionally, psychiatry plays a social regulatory role acting on behalf of medical and state authority in *loco parentis* to involuntarily restrain, confine, and treat individuals deemed a risk to themselves or others. Although the aim of mental health professionals and psychiatrists is to act in the best interest of the vulnerable individual, at times professionals have colluded with forces of oppression. Human rights then are instruments for challenging abuses of psychiatric power.

Mental health problems are unequally distributed both within and across societies, with the poor and oppressed enduring higher rates (Desjarlais et al. 1995; Prince et al. 2007). To some extent, this reflects the fact that war, political conflict, and other forms of violence are more common in these regions There is evidence that it is not poverty itself that is a cause of mental illness but the physical, psychological, and social impact of structural inequalities and injustices that are evident to all (Wilkinson and Pickett 2009). This impact of inequality is evident within developed countries as well, where those who face racism and discrimination and various forms of structural violence (often indigenous peoples and ethnoracial minorities) have higher rates of mental disorders (Kelly 2005). At the same time, those who are most afflicted have least access to services and may receive biased diagnosis and treatment (Smedley et al. 2003). This unequal distribution of illness and of access to services in itself constitutes a human rights challenge. Even if the unequal distribution of resources were addressed, however, a further challenge arises from the cultural embedding of mental health and illness. Equity in mental health care requires attention to these variations. Cultural psychiatry and psychology, as disciplines that systematically address the impact of culture on mental health, can be important vehicles to advance human rights.

Cultural relativism and human rights

The second question central to our concern is whether the concept of human rights is applicable across cultures. The assertion of human rights as universal rights would seem to answer this question prescriptively: human rights are meant to be applied across all cultures (Donnelly 2007). However, this universality has been challenged on both conceptual and political grounds. Conceptually, it has been claimed that the notion of human rights depends on specifically

Western notions of the person and cultural values that do not have the same meaning or impor-tance in other cultural contexts. Politically, it has been claimed that human rights are used as a way for Western societies to critique others, ignoring local values and priorities in favour of an agenda that serves hegemonic political and economic interests.

Ironically, given its origins in concerns for justice, cultural relativism has been used to challenge the universality of human rights. Relativism implies that moral values and judgments must always be interpreted relative to a specific cultural system (Lukes 2008). Within anthropology, relativism has its roots not in an attitude that 'anything goes' but in an attempt to counteract the racism and oppression that devalued, discounted, and silenced others' cultural values and points of view (Engle 2002). In its strong or radical version, relativism argues that cultural worlds are 'incommensura-ble'—that is, they cannot be directly compared because they do not share any common measure and can only be rightly understood, evaluated, and judged from within their own frameworks.

The cultural relativist critique of human rights makes certain specific claims: (1) that human rights are rooted in Western traditions and therefore: (a) make sense only with that tradition; (b) address issues that are peculiar to those traditions; (c) provide remedies that are workable or effective only within that tradition; and (d) that the very notion of who or what is vulnerable and of what constitutes human freedom and dignity is culturally determined; (2) that human rights, because they have emerged from Western cultural traditions, carry and impose that culture in ways that are corrosive to other traditions; and (3) that there are alternative ways to protect vulnerable individuals in other traditions. While these arguments focus on the issue of the cultural basis of human rights, a related set of arguments see human rights as handmaidens to specific political systems or interests, with the corollary that human rights serve to protect those interests (Ignatieff 2001).

Applied to the domain of human rights, cultural relativism argues that the concept of human rights and its legitimation depend on specific notions of the person, cultural values, sociomoral systems, and ways of life that vary across cultures. Rights, duties, and other ethical principles, therefore, cannot be understood or enacted without attention to social and cultural context. More fundamentally, certain rights, duties, and ethical principles cannot even be formulated or articu-lated without attention to these contexts and hence are irreducibly bound that way of life.

The claim that human rights are rooted in a Western tradition has been used to argue against their universal applicability. Central to the argument is the observation that human rights are founded on a distinctively European notion of the autonomy of the individual (Habermas 1998). There is a close relationship between the political metaphor of self-government and the psycho-logical metaphor of the mature person as an autonomous self-directed individual (Taylor 1989; Hunt 2007). But other traditions argue for interdependence as the basic reality of human existence and as a positive value throughout the lifespan (Critchley 2007). Emphasizing autonomy over the values of connectedness and dependence then works to undermine the solidarity of community. This critique questions the priority of rights over duties and emphasizes the value of community over the atomizing effects of an individualistic social order. A community-based ethos subordi-nates individual autonomy to the group; in return, the group imbues life with meaningful relationships and commitments through the medium of culture.

Although human rights as a social institution emerged in particular political and historical contexts, and so would seem to be obviously linked to specific cultural values and forms of life, there are many arguments as to why these rights can and should be asserted and applied across diverse social and cultural contexts (Donnelly 2003; Nickel 2007).

The first argument rests on our shared humanity, which includes our common vulnerability as well as similarities in processes of moral reasoning and intuition. While it is true that human

1 rights only can be articulated in relation to particular discursive formations that depend on
2 cultural notions of the person, it does not follow that human rights are wholly contingent and
3 relative, anymore than other basic human institutions. Although the content of moral reasoning
4 varies substantially, we can recognize domains of the moral having to do with fairness, justice, and
5 compassionate treatment of others across the range of human cultures. For example, Shweder and
6 colleagues (1997) suggest that moral systems within societies may be divided into three
7 types based on: (i) autonomy, individual rights and justice; (ii) community and hierarchy; and
8 (iii) purity. These basic modes of moral experience are grounded in our evolutionary biology and
9 in existential universals of human experience (Haidt 2007). Cultures differ in the relative empha-
10 sis given to these modes and to the social and psychological ramifications of each dimension, but
11 compelling arguments for the protection of vulnerable persons can be made across cultures by
12 appeal to basic moral intuitions. It is precisely because of our common vulnerability and interde-
13 pendence that we need human rights, not only to preserve autonomy but to protect those bonds
14 of dependence necessary for human flourishing.

15   The second argument involves a critique of the notion of culture and a clarification of its con-
16 temporary meanings. Historically, cultures have been viewed as homogeneous, self-justifying,
17 closed worlds of moral meaning and practice. In reality, as we have noted, cultures are complex,
18 open, hybrid, and contested from within and without. This makes it difficult to appeal to a cul-
19 tural norm as part of a cohesive and consistent body of knowledge and practice adhered to by a
20 community. Cultures are not finely tuned homeostatic systems that insure the well-being of all
21 members of the community (Edgerton 1992). There may be conflict, inequities, and injustices
22 within communities due to internal structures that advantage some members of a society while
23 oppressing and exploiting others. This is particularly clear in the case of gender, age, or other
24 forms of discrimination. Simply appealing to cultural tradition or collective values does not
25 address the vulnerability of children, women, and minorities to systemic violence and injustice.
26 Human rights offer a potentially useful strategy for the weak and vulnerable in any social system
27 to gain support for challenges to the status quo. Rights language provides a way to speak back to
28 power in social and political struggles that cut across diverse cultures.

29   The third argument has to do with the 'planetarization' of existence—that is, the fact that, in a
30 globalizing and ecologically challenged world, the actions of one cultural community inevitably
31 impact on all others. However much as we may live in separate cultural worlds, we all must co-
32 exist and this demands that we find ways to tolerate differences, maintain mutual respect, and
33 adjudicate and resolve conflicts. Ultimately, this project of creating a safe home for humanity
34 justifies the insistence on the universality of human rights as a prescriptive language for global
35 development and peaceful coexistence.

36   The arguments against strong cultural relativism have been used by some to dismiss the
37 relevance of culture to human rights but, in fact, they point the way toward addressing cultural
38 difference as part of the political project of extending the reach of human rights to diverse
39 societies and peoples. A weaker version of relativism as a method of understanding ethical
40 problems in context is entirely compatible with human rights. This form of pragmatic relativism
41 recognizes that cultural differences are important and seeks to trace their implications on a case-
42 by-case basis without assuming that everything presented as culture or tradition is automatically
43 sacrosanct and inviolable. This accords with the historical reality of cultures as constantly evolv-
44 ing in response to migration, growth, technological development, and the demands of changing
45 social and political environments. Fixing a given moment of culture as an inflexible standard
46 or tradition against which all future possibilities are to be measured (and rejected) precludes
47 the creative dialogue with others that has always been part of the evolution of human societies.

Such rigidity usually serves the vested interests of those in power who are reluctant to change the status quo.

In its pragmatic and situated form, relativism makes the modest claim that understanding and evaluating a cultural or ethical system requires attention to its cultural frame or context. The meaning and values of specific actions depend on the perspectives of actors, who are all situated in specific social and cultural contexts. This situatedness of meaning and experience does not mean that moral worlds are incommensurable but simply that taking their proper measure requires close attention to the ways that contexts are defined by cultural values and practices, the position of actors within their specific social contexts, and the web of historical and ongoing relationships in which they are embedded (Freeman 2002).

Rights are not just a matter of rhetorical or discursive practices. There are no rights without corresponding social institutions. Rights exist not for naked human beings but for human beings embedded in a social world constructed of cultural meanings and institutions (that is to say, background assumptions and agreed-upon or enforced procedures for regulating others through social power). The debate over the universality of the application of human rights also is situated in these systems of power. Human rights are not invoked from a universal 'view from nowhere' but depend on appeals to principles of vulnerability, justice, dignity, and respect grounded in cultural and historical particulars (Nash 2009). Understanding cultural contexts, therefore, does not so much challenge the basis of human rights (which like every human construct, emerge from a specific cultural history) but gives us a way to work out the moral calculus when (as is the case in most situations) there is not a single right or value to protect but a complex and sometimes contradictory set of values with conflicting or competing costs, benefits, and tradeoffs.

Cultural notions of humanness, humanity, and the humane

The concept of human rights is a cultural and historical invention that was born of basic moral feelings, empathy, intuitions, and concerns toward specific groups of others, which has been generalized to successively broader circles of humanity following historical forces and political arguments (Hunt 2007). The key cultural concepts that underlie human rights are the notions of *humanness* (defining who or what is human); *humanity* (recognizing ourselves as all one species, kinship group, or community, and so supporting the extension of our compassion from those closest to us to all human beings); and the *humane* (identifying what is good, kind, virtuous treatment of each other, as exemplified by empathic concern and compassionate action in response to others' suffering).

Human rights are rights enjoyed simply by virtue of being human (Donnelly 2003). But being human is not as obvious a characteristic as it might first appear. Cultural definitions of the human are part of larger ontologies of personhood that may understand the individual primarily as an isolated autonomous being (individualism), or as fundamentally linked to others in community (collectivism), to the environment (ecocentrism), or to the world of spirits and ancestors (cosmo-centrism; see Kirmayer 2007; Gone and Kirmayer 2010). Communal or collectivistic notions of the person emphasize the importance of relations with others as constitutive of the human being; hence maintaining these relationships is fundamental to individual well-being (Tu 1985). Cultures may also recognize certain types of non-human persons and extend rights to them. Thus, for some indigenous peoples, who were traditionally hunters, animals or animal spirits may be non-human persons deserving of respect and care to protect their dignity. The rights of animals and of the land itself for protection may figure in the moral calculus of such peoples. Similarly, in some cultures, ancestors who inhabit a spirit-world that intervenes in ordinary life are also

important social presences who must be included in moral reasoning. The cultural concept of the person is used to frame ethical problems, identifying the relative balance of rights and duties, autonomy and dependence in the morality of everyday life. Cultural notions of the human include ideas about 'human nature' and these are often used to underwrite claims for the universality of human rights.

The massive violations of human rights in genocides and other forms of organized violence have been fueled by processes of dehumanizing the other as somehow not fully or really human (Baum 2008). We have psychological mechanisms for dehumanizing others as subhuman, primitive, and animalistic or non-human, machine-like, and devoid of the capacity for empathy (Haslam 2006). These processes of dehumanization pave the way to excluding others from the human community and allow acts of violence to proceed without the empathic recognition of the other as a vulnerable or suffering human being that might otherwise limit our aggression. In some communities, people may be ascribed inhuman qualities, for example, as witches or demons. These labels undermine the humanness of the accused and make it easier for others to attack them.

Global survival depends on the opposite process of extending our empathy, identification, and concern beyond local tribalisms to encompass humanity as a whole. Nationalism and ethnic loyalty may forge ties to a larger group but they define insiders and outsiders, 'us and them', in ways that can undermine our sense of connection to humanity as a whole (Kristeva 1993). The nation state affords new forms of belonging but also creates extraterritorial spaces, outside the system of legal and material protections. This extraterritoriality results in a new kind of vulnerability that requires special forms of protection, like those embodied in the UN conventions on refugees (Benhabib 2004; Gibney 2004). Refugees appeal to a transnational commitment to hospitality in the name of humanity, to a moral obligation to take in, protect, and engage the vulnerable and displaced other; this extends from providing safe haven, to recognizing and helping them to document human rights abuses, to respecting and supporting their individual and collective efforts to reconstruct identity and communal life after its violent disruption. To work, this commitment to humanity must be institutionalized as part of the culture the institutions of the receiving society and members of the society must have knowledge of the cultural background of the refugees in order to make sense of their stories and respond appropriately (Kirmayer 2001).

The final cultural dimension to human rights concerns notions of the humane, of what constitutes dignified, respectful, and compassionate treatment of each other. Although this can be framed in abstract terms, any specification requires attention to specific cultural values and practices. What counts as inhumane treatment or indignity is clearly related to culture. For example, in the Indian Residential School system mandated by the Canadian federal government for over one hundred years to carry out a policy of forced assimilation, many Aboriginal children were taken from their homes, allowed only limited contact with their families, and forbidden to speak their language (Miller 1996). Accounts by survivors describe many forms of violence that are readily understood as inhumane treatment. Some men mention the fact that their hair was cut short to conform to Euro-Canadian styles and that this constituted a profound humiliation. Understanding the impact of this act requires an appreciation of the significance of hair as a cultural expression of manhood; as well, in some First Nations traditions, cutting the hair was a sign of mourning and boys who had their hair removed with little explanation worried that someone close to them had died. Though, as a general principle, dignified and humane treatment of another should include respecting culturally appropriate modes of dress and comportment, the seriousness of an assault on dignity can only be gauged with detailed cultural knowledge as well as an understanding of the individual's history.

The right to culture and community

Culture provides both the scaffolding of individual psychological development and much of its content. Cultural identity also provides the framework within and against which individuals articulate their identity. Respect for individual differences therefore necessarily entails respect for cultural differences. For all of these reasons, culture is essential to human flourishing, and international human rights declarations treat culture as a basic right (Holder 2006). Cultures, however, are not simply goods or commodities but ways of life that must be realized and enacted by social groups or communities.

Cultural identity also requires recognition by others within and outside the community. Hence, minority groups require a public space with opportunities for recognition by others in the larger society (Taylor 1992). Beyond mutual recognition, for cultures to be viable and have social power they must be engaged in dialogue with each other, founded on respect and open communication. This requires a dialogical situation where there is some common language, shared goal, or other basis to achieve a 'fused horizon' that expands each persons' vision of possibility (Gadamer 1969). This dialogical situation is also the place where human rights can be articulated and deployed to challenge oppressive forces within the community or the larger society.

The right to culture and community is equally important for individualistic and communalistic selves. The notion of the person as connected to community is not simply an alternative to the individualistic view but is complementary—identifying a basic truth about our nature as social beings for whom some degree of belonging is essential to well-being and the realization of personal strivings. 'Because even legal persons are individuated only on the path to socialization the integrity of individual persons can be protected only together with the free access to those interpersonal relationships and cultural traditions in which they can maintain their identities. Without this kind of "communitarianism", a properly understood individualism remains incomplete' (Habermas 1998:167). This makes the protection of communities a necessary concern of any system of human rights and, since culture is the medium through which communities are realized, with this right for community comes a right to culture. Indeed, the right to culture can be readily extended to many novel or emerging configurations of identity and community, including delocalized, transnational, hybrid, and virtual cultural communities.

Communal life is realized through culture but, in itself, this does not require any respect for or effort to preserve diversity—a single dominant culture would suffice. Diversity itself becomes a value when we recognize that each existing culture and community has a comparable claim to its own continuity and survival. There is also an argument on analogy to ecological diversity that sees in the diversity of cultures (and languages) the potential to adapt to new circumstances based on their unique knowledge, values, and practices (Harrison 2007).

There is continuing controversy over whether the protection of the right to participate in or belong to groups or communities (conferring specific identities, and realizing a way of life) necessarily requires group rights. The idea of group rights goes beyond the opportunity for individual freedom of association, to allow groups a measure of power and redress against oppressive forces. In so doing, group rights aim to preserve and protect groups as such, but this can readily come into conflict with individual rights. Nickel describes three kinds of group rights: 1) group security rights (the right to exist and be protected against genocide); 2) group representation rights (the right for political voice); and 3) group autonomy rights (the right for self-direction or governance) (Nickel 2007: 164).

The argument for group rights is based on the evidence that 'living within one's cultural group is a constituent part of some people's good (and not merely a means to that good). If so, for such people the survival of their group may have the same value as their own survival' (Nickel 2007: 165).

If the group is vulnerable to the power of the state or other larger forces applied to it as a group (rather than strictly through individuals), then it needs some mechanism to protect itself. Group rights have seen their strongest defense in response to the predicament of indigenous peoples. In the Declaration of the Rights of Indigenous Peoples, group rights are explicitly embraced, with rights attributed directly to 'indigenous peoples' rather than 'members of indigenous groups' (<http://www.un.org/esa/socdev/unpfii/en/drip.html> accessed 24 May 2010). These rights provide a basis for indigenous peoples to fight for the restoration of their traditional lands and for a degree of political autonomy. They also may create potential conflicts when groups exert cultural rights that challenge the autonomy of individuals within their own communities (Denis 1997).

Minority rights aim to address the vulnerability of ethnocultural, religious, or other groups living within a larger society with a dominant or majority group. The Universal Declaration of Human Rights explicitly includes minority persons among those who must enjoy rights without discrimination. Article 2 states 'Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status' (<http://www.un.org/en/documents/udhr/> accessed 24 May 2010). The list is clearly not meant to be exhaustive but to recognize the major ways in which societies divide and discriminate between groups.

In general, approaches to minority rights have addressed group rights through the individual. This works because of the close link between cultural identity and individual well-being. However, in some instances, this may not be sufficient. The UN Genocide Convention of 1948 speaks directly to the specific vulnerability of minority groups as such. Genocide is defined as the crime of killing, injuring, preventing births, or removing children 'with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such' (<http://www.hrweb.org/legal/genocide.html> accessed 24 May 2010). There are other human rights treaties that address minority rights either directly, or indirectly, under the rubric of more general principles (Nickel 2007:157ff). The UN International Civil and Political Covenant speaks of 'peoples', invoking the idea of distinctive if not wholly autonomous groups, and addresses minority rights explicitly: 'In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language' (<http://www.hrweb.org/legal/cpr.html> accessed 24 May 2010). Minorities here include ethnic, religious, and linguistic groups, that is, groups that have a distinct culture, religion, or language.

Beyond protection against direct threats to the survival of minorities, we have argued that basic issues of equity require efforts to make health services truly accessible and effective through systematic attention to issues to culture in mental health. Currently, this tends to be framed in terms of 'cultural competence' but models of service take different forms reflecting local demography, histories of migration, ideologies of citizenship, and the structure of the health care system (Kirmayer and Minas 2000). Equity in access and delivery of health services requires attention to the needs and values of cultural communities (Alegira et al. 2010).

Pluralism, multiculturalism, and interculturalism

The European conception of human rights implies a secularized political authority—or at least one committed to pluralism and to a democratic space for 'rational' debate where violators of human rights can be called to account (Lassman 2011). Hence, it stands against fundamentalism (which allows only its own truth) and dogmatism (which precludes rational debate). The space of pluralism allows for the coexistence of diverse cultures (multiculturalism) and their interaction and mutual transformation (interculturalism).

Multiculturalism aims to foster the coexistence of multiple cultures within one society and to make that diversity a defining feature of the collective (Kymlicka 1995, 2007). Benhabib (2002) grounds multicultural claims in three principles: egalitarian reciprocity, voluntary self-ascription, and freedom of association and exit. Beyond these basic political processes, multiculturalism involves a policy of public recognition and support for the institutions and practices (including those related to health care) of multiple ethnocultural communities within the same society (Kirmayer 2011).

Multiculturalism begins with an acceptance of the possibility of cultural difference in a common society. Maintaining islands of difference in a pluralistic system requires specific political efforts and provisions but these rest on particular cultural values or ideologies that embrace diversity (Kymlicka 2007). The persistence of minority communities may require a right of association or belonging and ways to elaborate their own intrinsic and relative values and protect their boundaries, for example, by teaching and using their own language or practicing their own religion, with all of its associated institutions.

At the same time, to protect individuals from the oppressive effects of groups, it is essential to insure the right of exit from a group or community. This is not a simply matter of preventing physical confinement and coercion, because there are psychological dynamics of attachment and belonging that may stand in the way of moving in or out of particular cultural communities. A pluralistic society provides options for continuing one's life outside the original cultural community. Pluralism itself therefore becomes the larger social context essential to insure the right of exit. Multiculturalism not only tolerates but actively supports alternative ways of life within a larger pluralistic society.

Some of the complexities of freedom of exit are illustrated by the Amish practice of *rumspringa* in which adolescents leave the community for a time to taste secular life and then are free to choose to rejoin the Amish community as a committed adult (Mazie 2005; Shachtman 2006). *Rumspringa* institutionalizes the right of exit; however, it also reveals some of the psychological and social complexities of 'freedom of choice.' To the extent that young people have been shielded from the secular world prior to adolescence, they may be ill-prepared to navigate their new-found freedom. As well, because their decision to leave the fold may involve severing ties with family and loved ones, the choice bears a substantial emotional cost. Thus, many individuals freely choose ways of life that are more constraining, whether because of the strength of affective bonds, the desire for meaningful structure in their lives, or other goals and convictions.

Multiculturalism has been criticized for viewing culture in terms of discrete community groups, conflating culture with ethnicity, and exaggerating the homogeneity of cultural identity and values (Modood 2007; Phillips 2007). Multiculturalism therefore runs the risk of trapping people within stereotypic and essentialized views of their cultural backgrounds. The argument for the virtues of communalism and connection is based on a romanticized view of community in small-scale societies, which becomes still more problematic in the context of nation states (Bauman 2001). A larger sense of belonging is needed to counter the divisive effects of identifying exclusively with an ethnically homogeneous cultural community (Kristeva 1993).

These same dilemmas apply to the uses of culture within the legal system. Thus, while Renteln (2004) has argued for the value of taking culture into consideration in legal processes, for Benhabib, 'the cultural defense strategy imprisons the individual in a cage of univocal cultural interpretations and psychological motivations; individuals' intentions are reduced to cultural stereotypes; moral agency us reduced to cultural puppetry' (Benhabib 2002:89). Treating culture as something that mitigates individuals' legal responsibility for their actions exaggerates the influence of culture on behaviour and undermines civil society. Nevertheless, systematic attention to culture can provide the contextual information essential to understand individual behaviour (which otherwise is

judged against the implicit cultural norms of the dominant culture) and so can contribute to greater equity within the legal system (Kirmayer et al. 2007).

Much recent work has considered how to configure pluralistic societies in ways that respect and sustain cultural diversity while allowing for fluidity, hybridity, conflict, and contestation (Phillips 2007). In place of a multiculturalism that accepts strong incommensurability among communities with divergent values, Benhabib (2002) advocates intercultural dialogue, that allows for an 'interactive universalism' (Bohman 2005). This recognizes that cultures and identities are formed through systems of dialogue that can be open at the boundaries to other ways of life. Democratic institutions make this dialogue possible (Habermas 1998). For Benhabib (2002, 2006), this dialogue reflects the reality that cultures are formed and reformed through interactions with other cultures. Dialogue requires not only tolerance of the other but active engagement.

There are a variety of political arrangements that can allow the tolerance and hospitality necessary for a dialogical process of encounter and exchange (Walzer 1997). Any regime of toleration, however, eventually meets its limits. For example, people willing to accept or even encourage others to maintain their distinctive style of dress (e.g. Sikh turbans, hijabs) may balk at tolerating genital cutting as a rite of passage for girls or young women (Shweder 2002). Yet even if it is clear that this is a medically harmful practice, it may have important cultural meanings that over-ride its health consequences for members of the cultural group. Thus, proscribing genital cutting without engaging the community in dialogue may erode communal authority and social institutions in ways that have unintended negative effects. Legal proscription sets limits on the tolerance of the other's cultural practices and so contributes to the (inevitable) process of culture change. Similar dilemmas occur in the more common cultural conflicts associated with migration, for example, intergenerational conflicts around adolescents dating, sexuality, or marital choices. A simple response of tolerance is not adequate because there are tensions within the community and adopting a 'tolerant' stance itself means taking one side in an argument within the community.

From an intercultural perspective, the aim then is to understand how particular practices are embedded in individual and collective identity and so, in enacting human rights legislation, to leave sufficient room for individuals and communities to work out transformations that preserve core values and maintain a necessary degree of cultural continuity. This speaks not to the basic principles or standards of human rights but to how they are enacted. Asserting and protecting human rights does not mean simply drawing a line in the sand and intervening forcefully in emergent situations, but depends on fostering a dialogue that includes the voices of the oppressed, those who desire change, and the conservative elements of a culture, community, or society that resist it. Human rights are instruments of change but must work with the cultural communities that give individual lives meaning and purpose.

In a pluralistic, democratic society, cultural exchange cannot be one-sided. Interculturalism means that the dominant or established groups allow themselves to be transformed by the other. The framework of pluralistic civil society, whether local, national, international, or global provides the arena for this interchange (Benhabib et al. 2006). The aim is not only basic respect for others in their cultural worlds as an end in itself, but the strengthening of the dialogical processes of encounter that can subserve the cultural transmission and institution building necessary to enact human rights. There is no doubt that human rights talk aims to transmit certain values and ideas and in so doing effects a transformation of culture (Nash 2009; Preis 1996). This need not be one-sided or imperialistic. Dialogue in an effort at moral persuasion can be founded on affirming our shared humanity and taking others seriously. Taking others seriously means recognizing not just their vulnerability but also their cultural allegiances and self-definitions. In so doing, we open ourselves to transformation through our encounters with others.

The two legs of human rights are a cosmopolitan understanding of the complexity and mobility of identities and a respect for and protection of local communities and their institutions as the holders and protectors of moral and cultural values (Sacks 2002). This demands what Appiah (2006) (borrowing from Ackerman 1994) has called a 'rooted cosmopolitanism' in which participants bring both their connections to specific traditions and their commitments to a pluralistic society that is realized through the process of dialogue and the institution of human rights. Within this pluralism, individuals and communities can allow themselves to encounter each other in ways that require their mutual transformation.

Conclusion: human rights in a globalizing world

Cultural communities are not isolated local worlds but increasingly embedded in global or planetary systems that offer new possibilities of identity and awareness and new scope for moral action. It is in this global context that we must understand the debates over the cultural relativity of human rights, and the problem of group versus individual rights. Human rights were devised to protect the individual from oppression and discrimination exercised by, or on behalf of, powerful groups or political entities. But human beings also are social beings who need to belong to groups—families, clans, communities, peoples—that preserve, protect, and confer meaning on a way of life. Thus, there is a tension between the needs for belonging and for autonomy. Efforts to advance human rights must consider how to negotiate tradeoffs when autonomy and belonging come into direct conflict.

In the domain of psychiatry, human rights have been used to address issues of unequal access to mental health care, bias and inequities in mental health treatment and outcomes, the exploitation of vulnerable groups and individuals in research, and the use of psychiatry as an agent of social control and political repression. These issues cut across cultural differences. However, attention to cultural context is needed to address the applicability of specific mental health policies and practices for particular populations or individuals.

Achieving equity in health care means not simply insuring access to services but also addressing their cultural appropriateness. If accessible and effective care demands attention to culture and engagement of the community, then the cultural safety and responsiveness of mental health services becomes a human rights issue akin to group or minority rights. The globalization of psychiatry itself also becomes a human rights issue as cultures are swallowed up by a form of cultural imperialism in which psychiatric knowledge and practices displace local frameworks of identity and systems of healing.

Although contemporary mental health professionals aim to ground their practice in scientific evidence, the 'psy' disciplines have their roots in Western cultural institutions (Rose 1996). There is a global hegemony of psychiatric knowledge largely derived from European and American traditions. Northern European and North American notions of individualism and autonomy underwrite much of psychiatric nosology, theory, and practice (Gaines 1992). The global economy that exports psychiatric knowledge and expertise also exports these values of individualism and corresponding ways of life. This may have a liberating effect by creating new options for people limited by illness or untenable social situations, but it also creates ethical conundrums. To act on behalf of the vulnerable, psychiatry must see beyond its complicity with the pharmaceutical industry and other economic and political interests that encourage mental health professionals and patients to frame problems in ways that exclude the social origins of suffering.

We need to explicitly address structural inequalities that are both the causes of psychiatric problems and the barriers to effective care. We need to work to ensure that the care people receive is effective. In intercultural clinical care, this includes addressing language differences with the use

of interpreters, and differences in cultural explanations of illness with culture brokers. It also requires maintaining a pluralistic health care system with opportunities to make use of culturally consonant forms of assessment and treatment. This pluralism requires continued critical reflection on the cultural assumptions built into different systems of help and healing, including biomedicine and psychiatry.

Human rights are tools for building global civil society. Although they spring from particular cultural traditions, and cannot be justified on universally acceptable metaphysical grounds, they speak directly to major political dilemmas of the contemporary world. Because they rest on cultural assumptions about the worth and inviolability of individuals and the need to protect the most vulnerable among us, their spread and adoption depends on promoting culture change—not toward a single global culture but toward a pluralistic system that encourages diversity and makes mutual tolerance and respect paramount.

Globalization has led to new forms of citizenship characterized as transnational, postnational, and flexible. These demand rethinking the processes of protection of vulnerable individuals and groups. Among the notions that underwrite relationships between individuals and communities in this new era we can see a progression in political argument from concern with tolerance to notions of hospitality, pluralism, dialogue, and cosmopolitanism (Benhabib et al. 2006; van Hooft 2009).

Cosmopolitanism reflects the social changes wrought by globalization, including the erosion of national sovereignty, the growth of diasporic communities, and cultural hybridity. In addition to legal and political institutions to sustain global civil society, these changes call for a new set of 'cosmopolitan virtues' of irony and skepticism, self-reflectivity, recognition of and care for the other, and the willingness to be changed by the intercultural encounter (Turner 2006). The uses of human rights must be subjected to critical analysis as states accumulate new forms of power and surveillance and as transnational corporations assert their economic interests in ways that accentuate inequality and suffering (Cheah 2006; Tsing 2004). Mental health practitioners are part of the emerging global society and also must engage in critique of the cultural assumptions built into psychiatric theory and practice. Awareness of the cultural values inherent in mental health practices is essential to advance the aspirations for justice and equity that underlie the commitment to human rights.

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