What Contributions can Sociology Make to Debates on the Foundation of Human Rights?

Introduction

On the surface of the question, the relationship between human rights and sociology would appear to be simple. Human rights are a 'good' thing, a sign that contemporary society is awake to the risks posed by humans to other humans, and prepared to outline its declaration of what is fair and what is not. However, sociologists have frequently found themselves at loggerheads with human rights proponents. The basic sociological argument is that the Declaration, laid down in 1948, is reductive. This essay explores the issue of the often turbulent relationship between human rights professionals and sociological lines of discourse, showing that sociology can add multiple layers of meaning to humans and rights.

Discussion

Sociology is something of a paradox in that it deals with both the human as an individual and the human as a group. The origins of sociology can be found in the works of Auguste Comte, who sought to unite the positivist frameworks of science with society (Lenzer, 1998). To this was added the more methodological approach of Emile Durkheim. Durkheim's ideas were grounded in Marxian theories of the centrality of materialism, particularly 1867's *Das Capital*. This has become the basic foundation for both sociology and the principles that underpin human rights discourse (Durkheim, 2014). The basic argument put forward by Marx was that "man" and "citizen" are different concepts, and in his withering critique of the concept of human rights Marx argued that the principle cements inequalities that are already a necessary element of capitalist societies (Goff, 2014).

Sociology has evolved to be centred around the study of social normatives and Others, therein embracing the rejection of universalism (Calhoun, 2012). Through the lens of sociology, the social landscape is highly heterogeneous. Whilst some patterns and behaviours can be predicted, there is also wide variety and individualism. Therefore, it is inevitable that there will be some tension with what is arguably the most homogenous set of principles ever to be adopted by humans:

international human rights law. A coded and concrete set of principles that are applied to all humans is, by its very nature, an exercise in equalisation.

At the same time, human rights have become crucial in understanding, defining, and resolving social struggles (Donnelly, 2013). Since human rights were universally declared in 1948, individuals have been able to campaign against situations that the Universal Declaration states are unlawful. Sometimes these are situations that seem morally wrong to many people, such as holding people in prison without charge. Sometimes these are situations that are more socially complex, such as whether convicted prisoners should have the right to vote.

Haynes (2010, p.811) writes that as the human rights field has expanded, the distance between it and sociology has steadily widened. Human rights are thought of as being impenetrable and impervious to criticism, a great monolith that cannot be challenged. On the other side of the bench are those whose daily reality it is to work with the significantly underprivileged, those living in societies that lack the safety net of institutions that industrialised nations have spent several centuries developing, and those living in conflict zones where any modicum of safety has evaporated. For people who have no other protection from exploitation and risk to life than the human rights act, the law is conceptualised as a vital weapon. Regardless of whether it is limiting, proscriptive, and narrow, supporters say that the declaration of human rights is an important component of the contemporary sociocultural landscape(s).

Many sociologists argue that the human rights act is very limited in its relationship to real life (Donnelly, 2013). The idea that norms can be imposed on the complexity of societies is inherently problematic, not least because implementing the values outlined in the human rights act requires the necessary institutions to do so. The concept and design of human rights grew from societies that already had institutionalised welfare, and education and other social systems to encode certain values. When someone in the UK talks about a right to privacy and dignity, this is a straightforward idea because these concepts are already deeply encoded in social discourse and enabled by social infrastructure (Donnelly, 2011). Attempting to apply

the same to a social setting where neither the principle nor the means to enforce it exists begins to encounter barriers before leaving the starting post.

Yet rather than framing this as an impasse, it is more helpful to view the situation as representing two sides of the same coin. That is, different ways of conceptualising and constructing the same picture. The primary value of sociology is in adding texture, detail, and depth to the formation of human rights law, providing the contexts into which that law is placed (Donnelly, 2013). That is, examining the ways that the basic principles of human rights can be applied to different settings, and identifying social and cultural anomalies when they arise. At the same time, sociology has a particular role in providing the theory behind the phenomena that cause human rights to be an issue in the first place.

For instance, sociologists have long been concerned with the issue of power and inequality, and it is worth exploring this in the form of a short case study. Within this theoretical framework, power is a social constant, actor, and consequence. Foucault was one of the main proponents of this line of argument, declaring that "power is everywhere" (Foucault 1998: 63). According to Gaventa (2003: 1) Foucault's vision of power is that it is "diffuse rather than concentrated, embodied and enacted rather than possessed, discursive rather than purely coercive, and constitutes agents rather than being deployed by them". In other words, power is not what it is often described as: a leader or manager imposing rules and strictures; instead, it "comes from everywhere" (Foucault 1998: 63) and is the basis of all social decisions and negotiations. In this discursive way, truth and epistemologies are constructed.

What this means from a sociological perspective is that each sociological group has its own way of conceptualising and constructing truth. Within this paradigm, 'truth' is constructed and constantly reinforced through education systems, the media, political ideologies, and economic ideologies. The way that people think and feel is therefore the process of multiple systems of power that work in tandem to create truth. This is very valuable information for people considering situations that might violate, or act as a barrier to, human rights.

Many who critique Foucault and subsequent related schools focus on the repressive and negative results of this power. However, this type of power is not necessarily so. As Gaventa (2003: 2) notes it "can be a necessary, productive and positive force in society". Foucault himself noted that "we must cease once and for all to describe the effects of power in negative terms […] it produces reality; it produces domains of objects and rituals of truth" (Foucault: 1991: 194). The social discipline necessary to enabling and continuing civilisation results from power, ultimately resulting in a situation where individuals discipline themselves rather than requiring punishment and correction.

When the world is viewed in this way, the issue of human rights becomes more than simply a monolith that is superimposed on the sociocultural space. Instead, it becomes a system of power that can be embraced and utilised as a social mechanism. Whether or not people and societies decide to conform to human rights laws, those laws exist as a point of definition against which other lines of discourse can be opened. Those who subscribe to the values and codes in the laws are accepting them as part of their narrative of power. Those who do not, from a sociological perspective, are ascribing to alternate power systems that need to be explored and understood.

From the point of view of human rights professionals, this type of theory can be helpful for understanding how human rights laws have arisen, and why they do not always work (Donnelly, 2013). For instance, Foucault explains that as a part of the politics of identity individuals define themselves against the normative (McNay, 2013), and this is a helpful way of understanding why, for example, groups such as the Islamic State commit so many extreme acts in the name of morality (Lyons, 2014). Their urgency to both attract attention and define themselves would be, when framed within this theoretical argument, not a dissimilar psychological mechanism to a teenager dressing as a goth and self-harming in order to make a visible statement. This is a way of contextualising a local reality within the broader socio-political framework that it inhabits, and shows how sociology can help to explain the complex sociocultural texture upon which the declaration of human rights has been imprinted.

Donnelly (2013) argues that sociology is far from perfect, often finding itself dislocated from reality when it comes to the relationship between human rights and lived experiences. However, sociologists are skilled at not shying away from the complexities of interpreting and implementing concepts of human rights, and therein lies some of its strongest assets. Sociology is by necessity inherently interdisciplinary, seeking for answers to questions that transcend the normative boundaries of research. Whereas the Declaration takes the stance that 'it should be like this', sociology takes the position of 'why is it not like that?' For those at the helm of human rights law and international relations, this information can be invaluable (Haynes et al, 2010).

Not everyone agrees that sociology is as dislocated from human rights as might be first assumed. Underneath the outspoken texts against human rights, such as de Beauvoir's *The Second Sex* (1949), there is the obvious question of how the concept of rights is instrumental in constructing social spaces. As soon as "liberty" and "freedom" are defined as social products, then they will become active agents in the social space. According to Durkheim, the idea of liberty seems to be framed as a social product of sorts. This is evidence of the fundamental semantics of 'rights' being open to a wide range of interpretations, not just in terms of what it is appropriate for people to have, but in terms of whether or not they are something that someone should want (Donnelly, 2013).

To read de Beauvoir, who was writing at a time when feminism was gathering pace and the rhetoric of gendered discourse was becoming increasingly polemic, human rights are strictures that confine rather than release. The world viewed through this window is one where masculine dictated ideas and concepts have profound effects on the social landscape as a whole, and any imposed structures are framed as being limiting and inhibiting. However, more recent lines of discourse in feminism have ceased to declare human rights to be limiting, and instead have suggested that the Declaration offers an important vehicle for engineering positive change (Haynes, 2010). For instance, the human rights act is non-gendered in terms of its application, and this immediately provides women with a legal equation with men. This can

therefore, from a sociological perspective, begin to be an active agent in social construction.

The issue of what is 'human' is also central to sociological discourse. The human rights act accepts that 'human' is a straightforward concept, accepting it to the degree that it is not defined. Sociologists approach the issue from multiple viewpoints (Donnelly, 2013). For instance, there is the argument that individuals are biologically programmed to behave in a certain way. Countering that argument is the suggestion that whilst there may be biological truths there is no behavioural truth, and that people perform their own reality through actions and, crucially, through discourse. This second line of argument frames the human experience as a constructed event, following inherited patterns. Understanding these patterns and mechanisms can be very important in understanding what humanity is, and the role that laws play in it.

Conclusion

The Declaration of Human Rights was a welcomed piece of legislation. However, applying universality to something as complex as human society is never going to be straightforward. Sociologists argue that human rights laws are reductive, but the reality is that human rights laws are just one element of a complex socio-political and sociocultural framework. In particular, sociology can explain how and why people behave as they do, which in turn explains how and why human rights laws are frequently ignored or violated. It may be some time before sociologists are in a position to study entire generations who have grown up with human rights principles in place, but for the present sociologists can observe and critically comment on the situation.

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