

Critical Analysis of the Deliberative School in Contemporary Human Rights Discourse with an Emphasize on John Rawls and Jürgen Habermas Thoughts

*Hossein NikuBandari**

DOI: 10.22096/HR.2020.110312.1148

[Received Date: 26/06/2019 Acceptance Date: 07/02/2020]

Abstract

In the contemporary human rights discourse, four schools of thought can be identified, including the Natural Law School, the Protest School, the Deliberative School, and the Discourse School. This essay is devoted to critical analysis of the Deliberative School in contemporary human rights discourse. The Deliberative School is most trusted by the views of two of the most important contemporary thinkers, Jürgen Habermas and John Rawls, in political philosophy. These two thinkers consider dialogue and counseling as one of the most important tools for achieving consensus and empathy in normative affairs in human societies, albeit with different perceptions and approaches. The basic question here is whether, as the advocates of the Deliberative School think, dialogue and consultation are the means for reaching a consensus on human rights and moral values? Deliberation and dialogue in some cases may lead not only to consensus but also to results such as assimilation of minorities and imposing certain values on other values or domination of the majority on minority.

Keywords: Human Rights; Deliberative School; Jürgen Habermas; John Rawls; Dialogue; Deliberation.

* M.A of Human Rights, Shahid Beheshti University, Tehran, Iran.
Email: hosseinniku@gmail.com



Bibliography

- Abbaspour, E. (2011). "A Methodological Survey of "Communicative Action" Theory of Habermas with a Critical Approach", *Social Knowledge*, No. 6, pp. 35-64. [In Persian]
- An-na'im, A. A. (2008). *Islam and the Secular State*, Cambridge, Massachusetts and London, England, Cambridge, MA: Harvard University Press.
- Baxi, U. (2006). *The Future of Human Rights*, Oxford, New York: Oxford University Press.
- Brown, W. (1995). *States of Injury*, Princeton, New Jersey: Princeton University Press.
- Critchley, S. (2006). *Deconstruction and Pragmatism*, translated by Shiva Roygarian, Tehran: Gameno. [In Persian]
- Cruft, R. and Massimo Renzo. (2015). *Philosophical Foundations of Human Rights*, London: Oxford University Press.
- Dembour, M. B. (2006). *Who Believes in Human Rights?*, Cambridge: Cambridge University Press.
- Dembour, M. B. (2010). "What Are Human Rights? Four Schools of Thought", *Human Rights Quarterly*, Vol. 32, No.1, pp. 1-20.
- Donnelly, J. (1989). *Universal Human Rights in Theory & Practice*, Ithaca and London: Cornell University Press.
- Douzinas, C. (2000). *The End of Human Rights*, Oxford: Hart Publishing.
- Douzinas, C. (2007). *Human Rights and Empire: The Political Philosophy of Cosmopolitanism*, Abingdon, UK and New York, USA: Routledge-Cavendish.
- Freund, J. (1989). *Sociologie de Max Weber*, translated by Abdolhossein Nikgozar, Tehran: Raizan. [In Persian]
- Gewirth, A. (1985). "Why There Are Human Rights", *Social Theory and Practice*, Vol. 11, pp. 235-248.
- Gewirth, A. (1996). *The Community of Rights*, Chicago, London: the University of Chicago Press.
- Habermas, J. (1990). *Moral Consciousness and Communicative Action*, Cambridge, Maldon: Polity Press.

- Habermas, J. (1993). *Justification and Application*, trans. C. Cronin, Cambridge, MA: MIT Press.
- Habermas, J. (1994). "Human Rights and Popular Sovereignty: The Liberal and Republican Versions", *Ratio Juris*, Vol. 7, pp. 1-13.
- Habermas, J. (1996). *Between Facts and Norms*, Cambridge, Malden: Polity Press.
- Habermas, J. (2010). "The Concept of Human Dignity and the Realistic Utopia of Hman Rights", *Meta Philosophy*, Vol. 41, pp. 464-480.
- Habermas, J. and William Rehg. (1998). "Remarks on Legitimation through Human Rights", *Philosophy & Social Criticism*, Vol. 24, issue: 2-3, pp.157-171.
- Haule, R. R. (2006). "Some Reflections on the Foundation of Human Rights; Are Human Rights an Alternative to Moral Values", *Max Planck yearbook of United Nations Law*, Vol. 10, pp. 367-395.
- Husak, D. (1984). "Why There Are No Human Rights", *Social Theory and Practice*, Vol. 10, pp. 125-141.
- Ingram, D. (2004). *Rights, Democracy, and Fulfillment in the Era of Identity Politics*, Lanham, Boulder, New York, London, Oxford: Rowman & Littlefield Publishers.
- Ingram, D. (2009). "Of Sweatshops and Subsistence: Habermas on Human Rights", *Ethics & Global Politics*, Vol. 2, No. 3, pp. 193-217.
- Kant, I. (2014). *Perpetual Peace*, translated by Bagher Parham, Tavana Publication. [In Persian]
- Khorasani, Sh. (1997). *From Bruno to Kant; an Outline of the Most Prominent Philosophers of the New Era*, Tehran: Elmi Farhangi. [In Persian]
- MacIntyre, A. (1985). *After Virtue, A study in Moral Theory*, London: Duckworth.
- McCarthy, T. (2004). *Ethical Consciousness and Communicative Action (a Survey in Habermas' moral ideas)*, Translation by Behzad Hamidieh, Strategy, No. 33, pp. 369-376. [In Persian]
- Nickel, J. W. (1987). *Making Sense of Human Rights*, Berkeley: University of California Press.

- Nickel, J. W. (1994). "Rethinking Rawls's Theory of Liberty and Rights", *Chi.Kent. L. Rev.*, No. 69, pp. 763-785.
- O'Manique, J. (1990). "Universal and Inalienable Human Rights: A Search for Foundations", *Human Rights Quarterly*, Vol. 12, pp. 465-485.
- Parekh, B. (2000). *Rethinking Multiculturalism*, Basingstoke, New York: Palgrave.
- Parekh, B. (2008). *A New Politics of Identity: Political Principles for an Interdependent World*, New York: Palgrave Macmillan.
- Rawls, J. (1996). *Political Liberalism*, New York: Colombia University Press.
- Rawls, J. (2002). *The Law of Peoples*, Cambridge, Massachusetts, London: Harvard University Press.
- Schafers, B. (2004). *Soziologie des Jugendalters*, translated by Keramatollah Rasekh, Tehran: Ney. [In Persian]
- Sullivan, R. J. (2010). *Immanuel Kant's Moral Theory*, translated by Ezzatollah Foladvand, Tehran: Tarheno. [In Persian]
- Waitr, J. J. (2006-2007). "Civic Education for Human Rights", *the Journal of the Central European Political Science Association*, Vol. 2, No. 2, pp. 95-102.