

## **Human Rights – A Dialogue with Abolhassan Banisadr**

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### **Introductory Remarks**

The translation of an original text from one language into another is more than an exercise in linguistic transmission. The task often affords opportunities for deep inquiry into the complexities of meanings that we take for granted, and critical reflection on the architecture of our own worldviews. In short, the translation of texts can allow us to think laterally about sensitive issues, explore the horizons and ambiguities of our own understanding, and become more intimately familiar with the ideas of others.

Such was the case with the translation of Abolhassan Banisadr's article on human rights and democracy' from Persian into English.<sup>1</sup> The following commentary is excerpted from much more extensive communications between Sarah Amsler (co-translator of the original article) and Banisadr. In addition, it includes excerpts from an e-mail exchange between Doris Schroeder and Banisadr. Although these originated as a private dialogue, we are making them available to a broader readership for two reasons. First, the questions and answers highlight a number of key questions about the meaning of 'power,' 'rights,' and 'freedom' that were raised in the original article. Second, we believe that free, open, intellectual discourse among author, translator, and reader can further the development of an original argument or set of ideas.

The following selections of the dialogue refer specifically

8 ■ S. Amsler and D. Shroeder

to (1) Banisadr's distinction between ability/strength and power, (2) the relationship between society and religious institutions, (3) the practical implications of Banisadr's conceptions of power and human rights, and (4) Banisadr's concept of rights.

**On Ability or 'Strength' versus 'Power'**

**SA:** Is the distinction between strength and force a *moral* distinction or a *descriptive* one? In other words, is it the difference between 'good power' and 'bad power' (or, as in some feminist definitions, power to/for/from versus power over)? Or is there some substantive difference between the nature of strength and the nature of force, other than the purpose for which power is intended and used?

**AB:** In the West, they do not differentiate between ability and power. This is why they consider power to have positive aspects.... Have you translated the word *tavanaee* to 'strength'? If yes, does this English word convey a meaning of ability devoid of force, and the idea of human rights and talents? For example, having knowledge is an ability or strength. There is no force in [this] ability. Knowledge results from the use of our talent of learning and rights, while force is a manifestation of the negligence of our own abilities.

Even philosophers differentiate between 'good power' and 'bad power,' or see positive characteristics of power. However:

(1) Ability is a manifestation of an open circuit, and therefore is freedom.

(2) Power is a manifestation of a closed circuit, in which only force can be used. Power comes to exist only through destruction.

(3) Ability (e.g., knowledge, art, etc.) has an independent existence and cannot be diminished, while power decreases as soon as it moves out of power relations.... In essence, ability is development, and power is anti-development.

(4) Absolute strength or ability is absolute clarity, and absolute power (which cannot actually be produced) would be absolute ambiguity and darkness. For this reason, we can imagine the absolute negligence of talents, rights and abilities. Not only does strength or ability not need discrimination, but also counters it, as knowledge develops as it spreads. However, if one wants to use the same knowledge within power relations, it must be transformed into an instrument of force. This is obviously discriminatory, as there will be inequality in the dominance of the knowledgeable over the ignorant.

(5) Strength or ability is universal; it is eternal and has no spatial limits. Power, on the other hand, cannot be brought into existence unless the circuit of dominator and dominated is closed within a definite time and space. We can open this circuit by freeing ourselves, using the same practical method that we use to free ourselves from power relations.

(6) Strength or ability is intrinsic in talents and human rights, while power is extrinsic, and a result of relations that only develop when people neglect their talents, rights, and abilities. This is why power is unstable.

(7) Ability or strength is a relation of construction in mutual development, while power is relationship of mutual destruction. Ability leads to development even in relation to nature, while we can see that power relations are accompanied by environmental destruction.

(8) Since ability is a reflection of freedom and rights, it removes barriers [to these]. Ability not only means keeping the circuit [of thought, speech, and action] open. It also prevents one from falling into the trap of power relations, even if others have neglected their freedom and rights. It can help others to become aware of their freedom and rights, thus transforming inability into ability. Power, however, creates limitations, and constantly imposes limits upon limits in its process of expansion and contraction.

### **On People and Religious Institutions: Redefining Religion as a Discourse of Freedom**

**SA:** You wrote about returning religion to its 'natural state' as a precondition for the liberation of human beings. Does this apply specifically to cases in which oppression is explicitly legitimized by religious ideology (such as in Iran), or do you want to argue that we must all be monotheistically religious to enjoy general rights and freedoms? Would the 'natural state of religion' be non-institutionalized spirituality? Also, would you care to debate the idea of a 'natural state of religion' from a sociological or existentialist perspective, or is it something that can only be understood within a theological or naturalistic context? If the latter claim is true, how might persons from such (seemingly) disparate perspectives have a productive debate about the issues raised? This is an important question not only for me, but also for the future of pluralistic societies that must be able to establish dialogue across a wide variety of religious and secular beliefs.

**AB:** Michel Foucault argued that all discourses are discourses of power. During the Iranian Revolution, he and I discussed [the concept of] 'negative equilibrium.' I told him that, if we make no distinction between ability and power (i.e., force), and if any discourse becomes a discourse of power, then only power relations could ever be authenticated. This would in turn lead to a plethora of contradictions, for example, the contradiction between power and life.

Once again, I must stress that dividing power into 'good' and 'bad' forms, or identifying positive characteristics of power in opposition to its negative characteristics, does not solve the problem. Power does not exist independently, but is the result of [human] relationships. Therefore, those who support these theories should answer this question: are there any relations other than power relations that create power? Is force not strength which has found a destructive direction? The horizon of life is the absence of compulsion and the presence of abilities. Any discourse that views life in freedom and development inevitably becomes a discourse of freedom. Therefore, to return religion to its nature is to discover religion as a discourse of freedom.

The relationship between human beings and religious institutions should be changed. First of all, religion as a discourse of freedom does not only belong within the state or any form of power (the same closed circuit). It is also a constant invitation of humans to freedom, and a method for development in freedom and with full rights. Second, the present relationship between religious institutions and people in society is one of obedience. The individual is obedient to religious institutions. The current form of totalitarianism in Iran reminds us (in theory, if not in practice) of medieval Europe; however, in the West, religion is also used as a discourse of power. The church represents both power and the relationship of religion to power. This is why humans facing power (in socio-political, religious, educational, artistic, and cultural forms) find themselves isolated and alone.

A great revolution should occur in societies so the relations of humans and institutions become relations of freedom. They must change in such a way that the principle and foundations of social institutions becomes a 'negative equilibrium,' and human relationships with these institutions instruments through which people can develop free relations. The discourse of freedom, so censored in today's world, can then become the guiding principle for human beings.

### **On the Practical Implications of Banisadr's Conception of Power and Human Rights: Not the Regulation of Power Relations, But Their Elimination**

**SA:** I agree that it is important to envision a society based on mutual respect and rights, in which there is no need to 'enforce' rights, but only to observe them. From a practical perspective, given that we live in a world in which people do currently violate the rights of others, can we use the definition of 'right as freedom' to protect the oppressed? In other words, can we bring this philosophy into the world and understand how it might be of practical consequence, and an improvement on the existing attempts to do so? (The designers of the Universal Declaration of Human Rights have themselves admitted that the document has many flaws, omissions, and ambiguities, which are precisely due to the grave difficulties they faced in trying to compose something workable from so many different world views, definitions, and demands. What definition will prevent this, and how can this be demonstrated, as it is claimed?)

**AB:** Why does liberalism define freedom as its antithesis? Because it views humans as immanent (or determined) creatures who will [inevitably] create limits in relationship to one another. Jean Paul Satre believed that humans have the ability to transcend their immanent nature, and that freedom is the escape from this facticity. However, beyond immanence, life becomes non-immanent. If our life is not determined, then each phenomenon is immanent within non-immanence. Therefore, human beings are free, and right does exist (rights being the relations between the immanent and the non-immanent, the finite with the infinite). In this way, humans create relationships with one another and the environment that are based on justice (*mizan*). Thus, to neglect God means to neglect freedom and one's rights. By becoming alienated in a discourse of power, religions have alienated humans from their relationship with God in power relations to such an extent that humans expect to achieve their freedom by the rejection of God.

You have written that people violate each other's rights, and ask what kind of practical method we can find within which these rights can be observed. However, how can one human being violate the rights of another unless he or she has first neglected his or her own rights, and his or her own collection of talents? As long

12 ■ S. Amsler and D. Shroeder

as one does not become neglectful of his or her own rights and does not submit to the order of power, how is it possible that his or her rights can be violated? A human being will effervescently observe the same rights in others that he or she can observe within him or herself.

Rights are multiple and interdependent. If I neglect one right among others, I have neglected all my rights. Therefore, if the Universal Declaration of Human Rights is not presently fully observed, it is primarily because rights have been defined as their antithesis (in other words, as power, which violates rights). In addition, it neglects spiritual rights. In truth, human beings' six talents necessitate certain rights. For example, the talent of companionship necessitates the right of love and kindness, sacrifice, and brotherhood and sisterhood. These rights are intrinsic in human life. We can ask ourselves, if we neglect love and companionship, what sort of rights will we be able to observe? When contradiction, and as a general rule dichotomy, become the guiding principles [of action], human beings neglect their entire rights. When *Towhid* (or unity with nature) becomes our guiding principle, however, it will be accompanied by the recognition of rights.

Therefore, the real question that should be asked is [not how to regulate power relations, but rather], '*what should be done so humans do not enter relations based on power relations?*' I have answered this by arguing that neglecting God inevitably turns social relationships into relations between immanent beings, and thus into power relations. [By creating] a negative equilibrium, however, exemplified by the relationship between human beings and God (freedom  $\leftarrow$   $\rightarrow$  talents  $\leftarrow$   $\rightarrow$  rights), as the basis of other relations, we can eliminate power relations.

### On the Conceptualization of Rights

**DS:** [It seems to me that the article] confuses two levels of debate about rights: the conceptual level and the descriptive level. The former refers to such issues as the origin of rights (e.g., human dignity based on human rationality - Immanuel Kant), their content (e.g., right to life, freedom, and private property - John Locke), their scope (e.g., animals are precluded from enjoying any rights - Rene Descartes), and possibly related topics of obligations and enforcement. The latter refers to the everyday use or misuse of the word 'right.' If a politician uses the word 'right' in order to defend a cer-

tain policy, this does not imply that his usage of the word is correct. He might simply use it for a power game, to justify his decisions and to stay in government. There are 'rights' and there is 'rights talk' used for purposes other than the securing of rights.

**AB:** You have distinguished between rights and the misuse of rights (i.e., 'rights talk'), and are right to do so. I agree with this distinction. However, would you agree that the reason these definitions of rights can be misused and become 'rights-talk' is that rights are not clearly defined, and based on power? Does not power operate by maintaining the form of a language whose content it has altered? Karl Popper, for example, believed that Plato performed this same trick with the word 'justice.'

**DS:** I agree that the concept of rights can very easily be misused, as can other concepts that are important to human beings, such as justice, happiness, religion, etc. In my view, it requires two types of people to avoid this misuse. First, those who conceptually clarify what the real essence of these concepts is (if that is possible), and second, those who can make people see that a misuse has occurred. Perhaps the former can be associated with a clear mind and the latter with leadership, charisma, and a keen sense of injustice.

[About your concept of rights.] The first of your three definitions of rights assumes that power relations and a state exist prior to rights, which are invented and given by the state. The next definition assumes that humans display certain behaviors that reflect certain norms. These norms are then formulated into laws by the state. The third definition is fairly vague; it merely says that rights constrain power relations. It does not, however, say where rights come from, which is the essential question in jurisprudence and political philosophy (a question answered by the first two definitions). The definition that is omitted is that human beings have rights by virtue of being human or by virtue of being rational, etc.

This last of the standard definitions of human rights in philosophy does not rely on power relations. Hence, your statement that all definitions of rights are clearly based on power only works because your list is not comprehensive. Most of what follows in the article is built on the premise that definitions of rights must be definitions about power, but that is not the case. It is only true of this list of definitions, which is not exhaustive.

**AB:** Regarding the definition of right, I should mention that none of the three definitions of rights was in any way related to the use of the word 'right' for political goals (i.e. the way George Bush uses it). All of these definitions have originated from legal experts who tried to define right; two of the references are from books written specifically about human rights. I hope you do agree that these three definitions are definitions of rights based on power. However, you have reminded me that they do not encompass natural rights. The question remains how natural rights are defined. Do not doubt that I have tried very hard to define these rights based on dichotomous principles without ultimately defining them as power, but I could not. Can you such offer a definition?

**DS:** You are right, the three definitions used are based on power and do not refer to 'rights talk.' You ask whether I can offer a definition of rights that is not based on power. As in ethics, rights discourse consists of at least two different inquiries: (1) Can we know what is good and what is evil; or can we know which rights there are? (2) Why should we do good; or why should we respect rights? The three definitions used are more focused on the second question, as they incorporate a strong element of enforcement. In 1798, Immanuel Kant said: 'Rights do not appear before power. It should be so, but it is not.' Kant did not mean that power is a necessary part of human life. On the contrary, he envisaged a time of eternal peace without any need for power and enforcement of rights. However, this state has not yet been reached. If one abstracts from today's politics and looks at question one pondering about the origin of rights, one can define rights as follows: "Respect for rights is a precondition for free human action. As all human beings are prospective agents, all rational beings will insist on their prudential rights-claim for freedom and, at the same time, grant this right to others due to enlightened self-interest." In this ideal situation, no enforcement and no power are needed, and Kant's eternal peace might be possible. Of course, I can see that this definition and its vision are most unsatisfactory for those who are faced with rights' infringements today. This definition is part of a vision. Following an e-mail exchange with Sarah Amsler, I understand that you also believe in this vision and call it *towhid*.

**AB:** Regarding Kant's belief in perpetual peace, in which humans will observe their own and others' rights. He postpones the realiza-

tion of these rights to the time when peace itself has been established. However, according to the principle of 'negative equilibrium,' and the everyday human experience, rights are intrinsic in human life. Individuals can exercise them so long as they do not neglect them. (Consider Abraham being thrown into the fire by Nimrod—a fire that then turned cold.) Rights, like justice, are indicators. The only difference is that right is both a goal and a method. However, if one transforms this into a goal that can only be realized when perpetual peace is realized, it will become an unattainable goal.

**DS:** [There is one other question I have with regard to rights]. Why should 'rights' have an independent existence? And if so, are they universal, or bound to time and location?

**AB:** In my article, I argued that one of the characteristics of right was that it should have an independent existence. The word 'independent,' if defined as the basis of the separation of rights from each other, contradicts other characterizations of rights that define them as interdependent parts of a larger whole. I think you will agree that non-existence (*nist*) cannot be seen as right, just as virtual reality cannot be seen as right. Right should exist, and the reason for its existence is in itself. Rights are not separated or independent from the person who possesses them, and because of this are intrinsic in their possessor. If we viewed the independence of right according to dichotomous principles, rights could be given and taken. In addition, the ownership of an object could not be seen as a separate and independent right. We even presume, for example, that humans have the right to own their own labor. This is because it is a relationship in which the owner and owned cannot be separated. The owner could be changed, but the relation always exists.

**DS:** Rights do not contradict one another, according to you. Do you also mean that obligations never contradict one another? If obligations are the mirror side of rights, one could assume so. But obligations contradict each other all the time. Keeping a promise to be in a particular place at a particular time can easily clash with helping somebody (e.g., an accident victim). Or do people not have a right to be helped and a right for their friends to keep their promises?

**AB:** You say that 'according to you, rights do not contradict each other,' and have asked whether duties contradict one another. You

give the example of a promise to be at a certain place at a certain time, during which someone else needs our help. Therefore, to help the victim will prevent us from fulfilling our first duty. Based on dichotomous principles, as in your argument, duty stands outside of right, and rights contradict one another. However, based on the principle of negative equilibrium, duty is not external to right. Any duty that is, is a duty of force. This is why the discourse of freedom is a discourse of guiding principles and methods with which all actions, words, and thoughts are oriented towards executing rights. The relationship between attending a meeting and helping a victim is not a contradictory relationship; it is not as if one is antagonistic to the other. Doing one duty does not necessarily prevent one from doing the other, unless one is not based on the exercising of rights. If one of the two duties is not based on executing rights, it should not be accepted from the very beginning. If both duties are based on executing rights, in your example, the execution of one right does not contradict the other right. This is because to attend a meeting is to execute the right of friendship. However, it is the duty of the friend going to an appointment and the friend waiting to meet them to help a person whose life is in danger, since if s/he becomes aware of such a situation, s/he has a duty to help. Even if the friend cannot inform his or her friend who is waiting, the latter will be thankful after learning of the situation later.

However, I have reflected about your question, and it led me to ask another. If human deeds, thoughts, and words would be nothing but the execution of rights, could we even imagine that some duties prevent others, or that we could prioritize one over the other, let alone see these become realities? This further reflection made me realize a fact that has been neglected, to wit, that not attending the meeting does not violate your friend's rights, while not helping someone in need is necessarily a violation of his or her rights. Whoever the perpetrator and whatever the violation, the fact is, a violation has taken place. Therefore, the duty to help this victim is a different kind of duty than your duty to attend the meeting. I asked myself, if duties are defined as the execution of rights, could we find two duties that are both executing rights and put humans in a situation in which they must choose one over the other. I could not come up with such a situation. Can you?

**DS:** You argued that it is very difficult to find two duties that are both executing rights but collide. How about the following situa-

tion? A young father entered a burning house to rescue a child. His injuries are terminal, and with minutes to live, he asks the emergency doctor: "Did the child survive?" The doctor feels two competing obligations. First, he wants to tell the truth; the child has died. Second, he wants to be benevolent and help the man to die in peace by telling a lie. As I understood your concept of executing rights, these are two that conflict.

**AB:** There is one truth and one expediency in the example you have given. This and many other examples like it are made in order to prove that expediency stands outside of truth and has priority over it. In order to make this believable, you have neglected a few facts. First, based on the example you have given, telling the truth (that the child has died) is a right, and expediency (lying about the child's death) is a lie. A lie and the truth are not made of the same substance. Secondly, there is no such thing as an absolute lie. A lie is something that covers the truth. Therefore, a lie cannot be made without contradictions. It is not difficult for the father to realize the contradictions of the lie. Furthermore, any father who loses a child senses this loss. If they then hear that their child is alive, this creates a sense of anxiety in them, and a lack of trust. The father, therefore, dies doubting what the doctor has told him. You know that to trust is a value. Being at peace with a lie is not. Third, any doctor who prioritizes expediency over the truth will lose the trust of his or her patients. You know how damaging the loss of trust can be.

You can be sure that expediency that is divorced from right and truth does not exist. It is obvious that right is also its own best method. If we define expediency as the best method for exercising right, we can ask the doctor to tell the dying patient the truth using a language that gives him both peace and trust, and that allows him to spend the last moments of his life with truth. You may know that mystic philosophers believe that every moment of this life, when we live with truth, is a time of connection with eternal truth.