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## **Human Rights and Social Wrongs: "Math Problems With Humans": A Personal Response to Phillip Allott**

Karen L. McGovern\*

Professor Phillip Allott of Cambridge University delivered seven two-hour lectures on human rights and social wrongs at the first annual Bertha Wilson Visitorship at Dalhousie Law School in September of 1992. Allott described the aim of the lecture series as "an effort to discover how one might set about changing the course of history through the application of ideas in the form of law, with a view to reducing the amount of social evils in the world and increasing the sum of human happiness."<sup>1</sup>

Allott began the lecture series by describing two recent events that exemplify the social evil present in our world. The first is the story of a woman whose child is killed by a member of a warring faction in her country and about how she expresses her grief from this tragedy by turning to kill other children in the name of her cause. Allott identified this as the eternal and universal event which represents all wrongs in our society. The second event he described is the creation of a machine for which there is no need or basis in our society – the Sony smell-making machine. The willful blindness to humanity's pressing basic needs and the lack of concern for the consequences of such technological growth represent society's woeful lack of control. Allott stated that all we do as humans is an attempt to integrate three worlds. The natural world is the physical basis of existence and that not within our control. The social world is that created by us in order to survive. Consciousness is that which is unseen and within us.

Human rights, defined as society's highest values, are an example of society seeking to improve itself by integrating the three worlds in the form of higher law. By declaring human rights, society reprograms or bootstraps itself through transcendence of its structures of ideas – it actualizes its potential through

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<sup>1</sup> P. Allott, Bertha Wilson Visitorship Lectures, Dalhousie University, Faculty of Law (September 1992) [Handout].

increased self-consciousness. The genesis of this process, in Allott's view, was the National Assembly of France's 1789 "Declaration of the Rights of Man and of Citizens." The people of France recognized the social evils present in their world and sought to improve themselves by a declaration of human rights. The process of transcendence involves "anamnesia" or learning through unforgetting. We return to our true nature by re-collecting our true past. This was the basis for the lecture series. By critically perusing and transcending the necessities we have created – morality, democracy, biology, and religion – we may "unforget" and return to our true nature.

The process of transcendence that Allott guided the class through involved a critical perusal of almost the entirety of Western male thought, culminating in a "Declaration of more-human rights, more-fundamental freedoms and higher duties"<sup>2</sup> modelled after the 1789 French Declaration. This Declaration focussed on encouraging individual and societal mental and affective potentials, the need for recognition of our interdependence, allowing differences, and individual and collective responsibility for the consequences of our behaviour.

With this final result I have no argument, as it is quite similar to my own general conclusions – our society needs a sense of responsibility and connection to each other to enable us to realize *we* are the ones who provide the rights and freedoms to and for each other. My criticism, however, is of Allott's process.

When one embarks on such a task, namely the perusal of all society's structures of ideas, it seems imperative that one includes all relevant information. Yet from a review of the ideas and materials we discussed — white, male and Western — one realizes that there were gaps in the data. Purporting this review to be whole and complete, without the inclusion of women and the diverse ethnicities and cultures that exist, is inexcusable.

Allott's exclusion, in an ironic but symbolic way, does, however, provide insight into the continuing inability of humanity to transcend and improve itself. By ignoring voices, the structure of ideas has been incomplete, and therefore, any process has been doomed to fail to some extent. The continued exclusion of voices will inevitably maintain this result no matter what the words of our declarations.

My response to Professor Allott entails a brief presentation of some of the feminist<sup>3</sup> ideas that were missing from his review. My purpose is to show that we can begin to achieve a greater sum of human happiness if we transcend those

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<sup>2</sup> P. Allott, Lecture, 18 September 1992, *ibid.*

<sup>3</sup> I have chosen to focus on a brief feminist presentation as an example of one of the missing links in Professor Allott's transcendental process leading to human rights declarations. I recognize and acknowledge that this is but one of the many voices that have been and continue to be excluded.

structures of ideas that currently exclude women, as well as challenge the structure of gender itself.

Several words and phrases in Professor Allott's declaration appeal to my feminist perspective: "self-transcendence" – the process of critically observing with a view to improving oneself; "affective potentialities" – our natural ability to experience the world in an emotive context; "higher duties" towards each other – the idea that along with our rights and freedoms comes a responsibility to create those for each other; and "interdependence" – the idea that we in society function as a whole and that we are connected to and responsible for each other because each of our individual actions has an effect on the whole. These themes of emotionality, nurturance, connectedness, and concern and responsibility for others are, not surprisingly, those traditionally labelled "feminine", and devalued and derided in our patriarchal society. While Allott arrives at the conclusion that these characteristics are necessary to improve our society, he does so without reviewing the experiences of women and, ultimately, without transcending the socially-created structure of gender. My discussion focusses on the effects of gender structure and devaluation as a partial explanation of our present state, and how the inclusion of a feminist analysis is essential to our progress towards a more sane and humane society.

One of the most striking and horrifying social structures Allott discussed in the lecture series was the creation of a parallel reality through the mass media. This artificial reality induces apathy by allowing us to escape facing the pain and chaos of our true reality. In its place, the artificial world provides us with a ready-made sense of morality from which to gage our experience. A contemporary author, Douglas Copeland, satirically defines this phenomenon as "tele-parabolizing" – morals used in everyday life that derive from TV sitcom plots: "That's just like the episode where Jan lost her glasses!"<sup>4</sup> This observation while humorous is significantly indicative of our present state. It best exemplifies how humanity has arrived at the point of great social wrongs where humans kill humans in response to their own loss, and our technology production vastly exceeds our motivation to determine the value and consequences inherent in their existence. The theme that runs through this socially-created structure is the lack of context – murder and machines become abstract entities devoid of emotion and relation to others.

From my feminist perspective, this is a result of the dominant male ethos of individuality: the acquisition of power, objectivity, rationality, impartiality, and absolutism. We are individually encouraged to deny our emotions and taught

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<sup>4</sup> D. Copeland, *Generation X: Tales for an Accelerated Culture*, (New York: St. Martin's Press, 1991) at 120.

that we should look and feel in control at all times. As a society we believe that justice and truth come from being objective and impartial, and that by removing ourselves and our emotions from the context of the situation we can find universal truths.

McCalla Vickers<sup>5</sup> discusses how male-stream symbol systems in our society pervade research methodologies. She explores the rational, linear methods which demand impartiality and objectivity based on the "presumption that the liberated man can transcend his passions, prejudices, and even his death, through an elevation of his reason and a suppression of his non-reason."<sup>6</sup> She paraphrases Parlee<sup>7</sup>, noting that this translates into "context-stripping" where "[c]oncepts, environments, [and] social interactions are all simplified by methods which lift them out of their contexts, stripping them of the very complexity which characterizes them in the real world."<sup>8</sup> This predilection with linear processes and universal principles derived objectively disposes us to apathy by denying emotionality and context.

Language is an excellent illustration of the problems inherent in this ideology. Both McCalla Vickers<sup>9</sup> and Daly<sup>10</sup> identify that by abstracting human agency in language we lose the explanation of its origin and purpose, and thus its reality. They give examples of violence against women: of suttee (the practice of widows being thrown on their husband's funeral pyre) and foot-binding, described as custom, and of witch-burning, defined as religious legitimacy. The question is: "who can blame an abstraction for starving you, mutilating you, murdering you through suttee...or crippling you through footbinding?"<sup>11</sup> By removing the context, we are individually and collectively able to abdicate responsibility for our actions. To me, this decontextualization of language is exactly the same as the parallel reality of mass media Allott described. Real pain and torture are transformed into generic, streamlined versions absent of context and complexity, and devoid of accountability.

How does this translate to our individual and collective morality as a society? How does this affect our ability to declare, and more importantly, to give effect to human rights? Following from my thesis that the dominant male

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<sup>5</sup> M. Vickers, "Jill, Memoirs of an Ontological Exile: The Methodological Rebellions of Feminist Research" in *Taking Sex Into Account: The Policy Consequences of Sexist Research*, (Ottawa: Carleton University Press, 1984).

<sup>6</sup> *Ibid.* at 42.

<sup>7</sup> M. B. Parlee, "Psychology & Women" (1979) *SIGNS* 127.

<sup>8</sup> *Ibid.* at 131.

<sup>9</sup> *Supra*, note 3.

<sup>10</sup> M. Daly, *Gyn/ecology: The Metaethics of Radical Feminism*, (Boston: Beacon Press, 1978).

<sup>11</sup> *Supra*, footnote 3, 48.

ethos has produced this situation by expounding its rationality and impartiality while subordinating the female-stream qualities of connectedness and emotionality, I refer briefly to a few well-known studies examining gender difference in solving moral dilemmas.

Carol Gilligan<sup>12</sup> conducted research on boys and girls solving moral dilemmas paralleling Kohlberg's study of boys and men. The study involved the Heinz problem; a man whose wife is dying cannot afford to purchase a new drug that will save his wife's life since the only druggist who sells it is seeking an exorbitant price. In her study, Gilligan found that boys, as represented by "Jake", were more likely to use a blind justice approach based on a hierarchy of rights. In this situation, Jake's verdict was that the right to life was more important than the right to property and therefore Heinz should steal the drug. As he described it, it was like a "math problem with humans."<sup>13</sup> The girls, represented by "Amy", tended to avoid quick decision-making, focussing instead on the narrative perspective of the relationships involved. When asked whether Heinz should steal the drug Amy responds: "Well, I don't think so. I think there might be other ways besides stealing it, like if he could borrow the money or make a loan or something, but he really shouldn't steal the drug – but his wife shouldn't die either."<sup>14</sup> Amy's adherence to the context of Heinz' situation prevents her from concluding that there is one right solution to a certain moral dilemma.

Later work by Gilligan and Lyons<sup>15</sup> explores two contrasting conceptions of the self that inform one's morality and epistemological orientations. Those within the separate epistemology category use impersonal procedures for establishing truth. They base it on the separate self that experiences itself in terms of reciprocity. In contrast, those in the category of connected epistemology, where the self experiences relationships as response to others in their terms, find truth emerging through care.

Another study on the epistemological development of women by Belenky *et al.*<sup>16</sup> found similar paradigms of subjective, objective, and connected knowing. Subjectivists are self-focussed and define truth as private, while objectivists find knowledge by "weeding out the self" and analyzing their external world.

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<sup>12</sup> C. Gilligan, *In a different voice: Psychological theory and women's development*, (Cambridge, Mass.: Harvard University Press, 1982).

<sup>13</sup> *Ibid.* at 26.

<sup>14</sup> *Ibid.* at 28.

<sup>15</sup> N. Lyons, "Two perspectives on self, relationships and morality", (1984) 53 Harv. Educ. Rev. 125.

<sup>16</sup> Belenky, *et al.*, *Women's Ways of Knowing: the Development of Self, Voice and Mind*, (New York: Basic Books Inc., 1986).

Connected knowers weave together the strands of rational and emotive thought realizing that as humans they are involved in the construction of knowledge. Instead of extricating themselves from the process of knowing, these women view the self as an essential part of the dialectical process of knowing and being. They discuss a heightened consciousness and a sense of choice about "how I want to think" and "how I want to be."

A central feature of the constructed knower is the ability to empathize, to attend to a person and to feel related despite what might be enormous differences. In moral dilemmas these women are sensitive to context and situation, and resisted premature generalizations and actions. "They develop a narrative sense of self – past and future. They do not want to dismiss former ways of knowing so much as they want to stay alert to the fact that different perspectives and different points in time produce different answers."<sup>17</sup>

What is the relevance of research that finds sex differences in human moral development? Mary Joe Frug<sup>18</sup> discusses two possible interpretations of these findings of sex differences, focussing on Carol Gilligan's research. She describes a conservative approach which would conclude that men and women have inherently different moral development, and, that these are immutable characteristics. In the transcendental approach that Allott proposed (assuming we include women in his review of structures of ideas) one solution would seem to be to fill the gap by recognizing the need for inclusion of the female-stream characteristics that have been devalued. If we stop at this point however, we presuppose that by replacing that which has been ignored or subordinated nothing has been lost in its absence.

The progressive approach, on the other hand, would view the findings knowing that "sex differences...are context-bound"<sup>19</sup> and that the differences Gilligan identifies are a "methodology for challenging gender."<sup>20</sup> Catherine MacKinnon<sup>21</sup>, using this approach, has strongly criticized Gilligan's unqualified conclusion that women's morality is "in a different voice." She maintains that these differences result from patriarchy, that women are relationship-oriented because they have had to be in a world that dominates them. She is hesitant to claim these as women's voices since she believes that women have not yet had the chance to find out what their true voices are:

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<sup>17</sup> *Ibid.* at 131.

<sup>18</sup> M. J. Frug, *Postmodern Legal Feminism*, (New York: Routledge, 1992).

<sup>19</sup> *Ibid.* at 40.

<sup>20</sup> *Ibid.*

<sup>21</sup> C. MacKinnon, "Difference and Dominance: On Sex Discrimination", in *Feminism Unmodified*, (Cambridge, Mass.: Harvard University Press, 1987).

Women have done good things, and it is a good thing to affirm them. I think quilts are art. I think women have a history. I think we create culture. I also know that we have not only been excluded from making what has been considered art; our artifacts have been excluded from setting the standards by which art is art. Women have a history all right, but it is a history both of what was and of what was not allowed to be. So I am critical of affirming what we have been, which necessarily is what we have been permitted, as if it is women's, ours, possessive. As if equality, in spite of everything, already ineluctably exists.<sup>22</sup>

This progressive and contextual interpretation provides a real starting point for the kind of transcendental process Professor Allott asserted, but did not fulfill. It identifies the mass of ideas that informs our morality, which he labelled the "inherited conglomerate," as male-stream dominated and exposes the confines placed on humanity by such a structure of ideas. It shows we have yet to self-actualize as a society and that we have yet to know our true potential. As MacKinnon succinctly states: "All I am saying is that the damage of sexism is real and reifying it into differences is an *insult to our possibilities*."<sup>23</sup> (emphasis added)

Our challenge, then, is to not only "unforget" or re-collect those characteristics we now know as female-stream, but also to transcend gender as a socially constructed necessity. This is but one of the structures of ideas that must be transcended so that we stop treating human rights like "math problems with humans"<sup>24</sup> and create a society that espouses and acts with respect for humanity in all its variations.

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<sup>22</sup> *Ibid.* at 39.

<sup>23</sup> *Ibid.*

<sup>24</sup> Gilligan, *supra* note 12 at 26.