Concepts, Communication and Relevance of Philosophy to Human Rights: A Reply to Peerenboom

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Randy Peerenboom has paid me the enormous compliment of thinking it worthwhile to engage in sustained, critical dialogue with my book. In this response to his review essay, I attempt to return the compliment. I focus on issues surrounding concepts and communication, since that is where Peerenboom puts his emphasis. Near the end, I look at what is at stake in our discussions of Raz, touch on the question of judgments and objectivity, and close with some thoughts about the relevance of history to my goals in the book.

At the heart of Peerenboom’s critique of my account of concepts and communication are two concerns. First, he worries that I do not “provide a satisfactory answer to the questions of how to determine whether we are dealing with a single concept or discourse or multiple concepts or discourses.” Second, he suggests that my entire discussion of concepts, “while interesting academically at least for those with a taste for philosophy, diverts attention from the real issues.” I will begin with the first. A valuable result of Peerenboom’s essay is to help me to see where I have not made myself as clear as I would have liked to. At various points in the book, I raise the issue of the normative nature of questions like those Peerenboom has posed (see, e.g., pp. 27 and 32), but this is clearly something that needs more emphasis. Asking what a word means, or whether two people share a concept, or for that matter where the boundaries of a discourse lie are never simple, descriptive questions. These are normative questions, which always receive normative answers. By “normative,” I mean that the questions and their answers are prescriptive for those in my shared community. When someone says “we mean such-and-such by that word,” the “we” is crucial: it is saying that people like us, in some respect, ought to talk this way. Thinking about language in normative terms permeates Brandom’s approach. He writes, for example, that: “When the prosecutor at Oscar Wilde’s trial asked him to say under oath whether
a particular passage in one of his works did or did not constitute blasphemy, Wilde replied ‘Blasphemy is not one of my words’” [1994, 126]. Wilde recognized, that is, that using the word “blasphemy” brought with it certain commitments that he — and other like-minded individuals — ought to reject, even if he were to deny that a particular passage was blasphemous.

So far so good. But Peerenboom sees a tension between what looks like a community-based definition of concepts — perhaps all Chinese ought therefore to share the same commitments? — and my endorsement of a holistic approach to meaning, according to which our individual webs of commitments always vary from one to another. This latter idea leads him to be puzzled about when two people can ever be said to share the same concept. He searches for a criterion for sufficiently similar concept; wonders whether my talk of “keeping score” can provide such a criterion; and in the end decides that the choice of where to draw these lines is, in many cases, arbitrary. There is indeed a tension, and some arbitrariness, too, though not exactly where Peerenboom sees it. But none of this is problematic, I think, and in any case it emerges from the very complexity of our linguistic practice. Communities do not impose norms on us: we authorize the norms through the ways we speak, act, and react to others. “Authorize” is apt because it combines the ideas of creation and legitimation. Our perpetual roles as authorizers of a community’s linguistic (and other) norms give us a certain amount of autonomy with respect to the norms, as well as explaining some variance, as we (consciously or unconsciously) push boundaries in one direction or another. At the same time, no one is a member of only one community. We interact with different groups at different times and in different ways, which puts the notion that we could be bound by the norms of a single community under further stress. One tiny example. I often find myself in discussion with three different configurations of colleagues on campus: philosophers, social scientists (which on my campus officially includes philosophers), and East Asianists. Each group has different expectations for the word “normative,” which if I am not careful to heed, can stand in the way of communication.
Concepts, in short, must be seen as a kind of generalization or abstraction from the specificity of individual speakers’ worlds of practice. When we say “this concept means such-and-such,” we are inevitably leaving out some connections, implications, and inferences. Therein lies a degree of arbitrariness. We are also choosing to foreground a certain community’s commitments, whether it be (one of) our own, or, in the case of a historian, someone else’s. The commitments we (almost always implicitly) authorize depend on our purposes for engaging in communication. It is for these reasons that Brandom insists that communication is not about sharing common meanings, but about cooperation in practice. We can perfectly well understand others whose commitments differ from our own; Brandom’s metaphor of scorekeeping is just meant to express the idea that we can keep track of the commitments that follow from a given utterance. Communication breaks down when we find ourselves unsure how to score someone’s sentence: that is, what commitments are they expressing (see my dialogue between Wang and Smith, pp. 28-30)? Communication also breaks down when two interlocutors cease cooperating. In Brandom’s example cited above, the shared effort between Wilde and the prosecutor to understand one of Wilde’s writings temporarily breaks down.

Both of these instances of communicative breakdown involve differences of concepts. In both cases, communication can be re-established — that is, the cooperative practice of understanding one another and getting along together in the world can proceed — by making more explicit what commitments one takes certain sentences to express. Brandom calls this process “expressive rationality.” In the case of Wang and Smith, it means talking through their differences, as I suggest on pp. 28-30. For Wilde and the prosecutor, it would involve the prosecutor spelling out the presuppositions and implications of something’s being “blasphemous,” and Wilde’s dissenting from those commitments he does not endorse. Whether these efforts actually take place in practice, of course, depends on our larger goals: sometimes we are content to leave off communicating.
This brings us to the latter of Peerenboom’s two questions about my discussion of concepts, namely that it “diverts attention from the real issues.” He says, in essence, that it doesn’t matter very much whether we “pat each other on the back … and claim to have the same concept of rights,” or “angrily stare each other down and claim to have different concepts of rights.” He allows that this difference can have certain practical consequences, but “what really matters is just what our commitments are” and what we will do to resolve those differences. Exactly! As Peerenboom has explained with admirably clarity, my main argument has two parts: Chinese rights discourse has been, by and large, distinctive (that is, different in various ways from much of Western rights discourse); but this distinctiveness does not stand in the way of communication, dialogue, and constructive engagement. Identifying conceptual differences only leads to angry stares if one wants to manufacture an excuse for ending the conversation. Even then, anyone familiar with my argument should be able to see that the obstacle to conversation is not the conceptual difference, but the desire not to cooperate. Like my discussion of parochialism in Chapter 3, an important result of my discussion of concepts is diagnosing the limits to which “different concept” can be used as a legitimate conversational gambit.

I think, therefore, that Peerenboom and I are in agreement over what matters — and I think that my understanding of concepts helps to see why it matters. Will this make a practical difference? Peerenboom ends his essay with considerable pessimism about the relevance of philosophy to solving the real problems that talk of human rights is meant to solve — indeed, about the ability of anything to solve the problems that human rights are meant to solve. This is not the place to take up his broadest challenges to the human rights movement (as utopian, giving rise to its own forms of repression, and inhibiting the formation of alternative, perhaps superior, moral frameworks). Nor am I naïve about the role of philosophers in the over-all pursuit of protection for human rights. I will say, though, that one of the greatest challenges of philosophical work on human rights is working to hear, and be heard by, the many others who approach human rights from a range of different disciplines and perspectives. Theoreticians,
activists, historians, lawyers, and policy makers all have things to learn from one another. Of course it would be naïve to image a scenario in which one world leader says (with, perhaps, an angry stare) “this conversation is going nowhere because we have different concepts of human rights,” and the other responds “Oh, that’s not a problem: let’s just engage in expressive rationality!” Still, perhaps one can hope that ideas filter through the many and cross-cutting discussions of human rights in which philosophers play only one part.

So far I have focused on the issues of concepts and communication, where Peerenboom places the most emphasis in his review. Before closing, let me turn more briefly to some other issues on which he touches. This is not the place to delve into detailed argument over different ways of cashing out the intuition that rights protect interests in some special way. Instead, note that both Peerenboom and I have a two-pronged goal in discussing the relative merits of Raz’s formulations. On the one hand, we are interested in working out among ourselves how to best understand “rights.” On the other hand, we are keen to enter into dialogue with Chinese theorists. While Chinese political and legal philosophers are, in general, far more conversant with Western writings on these issues than Western thinkers are with Chinese contributions, there is room to go on both sides, to say nothing of direct engagement with one another. I am certainly interested in working out whether rights can simply be, as Peerenboom says, particularly weighty interests. But I am also interested in pursuing how such a formulation would look from the perspective of Li Buyun, Xia Yong, or other Chinese rights theorists. As Peerenboom sees, my argument is not that such thinkers are already implicit Razians, but that by rethinking our own understandings off rights, we may find more room for success in our creative, critical engagement with the Chinese.

I will conclude with a few words about the role of history in my account. The book contains a lot of intellectual history, but it is not solely, or even primarily, a work of history. I strive for a coherent narrative, but some thinkers and some time periods receive much more
attention than others. Peerenboom rightly sees that I am pursuing two different projects — one
descriptive, one normative — which can be in tension with one another (his note 9). In addition,
though, there is a third goal of the book that helps to explain my choice of historical material.
Peerenboom takes me to task for saying that “Chinese rights discourse should be seen as an
ongoing creative achievement, rather than a reaction to or misunderstanding of Western ideas”
(his note 6). It is indeed true that there was plenty of reaction and misunderstanding, but my goal
is to put Chinese agency in the foreground. To do this, we need to see some of the background
commitments that led certain Chinese thinkers to be interested in what they came to call
“quanli.” This is the focus not just of my chapter on neo-Confucians, but also of the chapters on
the nineteenth and the early-twentieth centuries. Peerenboom occasionally writes as if the
penetration of human rights discourse into all countries on the globe were simply a matter of
large-scale historical forces working themselves out. As a professed pragmatist, he is of course
well aware that these processes were in fact the results of local, contingent developments. As
much as they were local and contingent, though, they were not arbitrary. They were reasoned
responses to the changing situations in which Chinese intellectuals found themselves. Pairing
contingency with reason is another way of making the point that I formulate in the book as
communication despite distinctiveness. Our contingently different starting points
notwithstanding, we can reason together and hope to bridge differences that we find problematic,
so long as we each, from our own perspectives, want to do so.

1See Mario Biagioli, “The Anthropology of Incommensurability.” Studies in the History and