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Human, Equal, Person? Some reflections on claiming humanity

In *The Politics of the Human*, Anne Phillips is interested in ‘the part played by the human in political thinking and life’ (Phillips, 2015, p. 4). According to Phillips, humanity, which she sees as a synonym for equality, entails both claim and commitment (Phillips, 2015, p. 77), where commitments refer to those ‘made by the members of a political community to recognise one another as equals’ (Phillips, 2015, p. 77). In this short ‘exchange’ with Phillips, I will highlight the benefits of a political account of the human, and the value in her space for *claiming* humanity. However, I will also raise some questions about claims to humanity, and about the relationship between claim and commitment. The linking of commitments to political communities has some implications that are important to address. While Phillips does not ‘think that our claims to equality are necessarily bounded by membership of specific political communities’ (Phillips, 2015, p. 68), much of her argument takes the state for granted.

A key contention of the book is the claim that ‘the politics of the human requires us precisely to address the divisions’ we maintain between people (Phillips, 2015, p. 1). The lack of engagement with the divisions between states, populations, insiders and outsiders suggests that Phillips in fact sees the state as the domain of equality. This is problematic because it leaves unquestioned substantial, hierarchical and exclusionary divisions between people both within, and between, states.

Enacting equality

For Phillips, the role of ‘the human’ in politics is ‘in one sense, interchangeable with equality’ (Phillips, 2015, p. 4). For her, ‘being human and equal is a political rather than cognitive matter’ (Phillips, 2015, p. 9). This move allows us to avoid the conceptualisation of the human on exclusionary and hierarchical grounds. ‘The human’, on her account, implies instead a political claim and commitment to equality (Phillips, 2015, p. 77). What is ‘radical’ in the politics of the human is ‘the claim, *by those not yet recognised as such*, that they are of fully equal standing’ (Phillips, 2015, p. 9). I agree with Phillips that a political understanding of the human is desirable, for several reasons. Firstly, and as she suggests, it avoids the impossible quest to ‘get to the essence of things’ (Dillon, 2014, p. 519). In side-stepping this task, I share with Phillips the hope that we can get on with the task (in political thinking) of understanding how these exclusions and hierarchies have been made possible; and (in life) the task of enacting greater equality of standing.

Phillips seeks to articulate ‘an anti-foundationalist account of the human’ (Phillips, 2015, p. 17), in which humanity or equality are made or enacted. She produces this account first through a critique of

substantive conceptions of 'the human', and next through a critical engagement with Richard Rorty and Hannah Arendt's accounts. When it comes to Rorty, she shares his anti-foundationalist impulse, but is troubled by his approach to difference. Whereas Rorty rejects the abstraction of 'humanity', his account of solidarity is still interested in expanding 'the reference of the terms *our kind of people* and *people like us*' (Rorty, 1998, p. 172). Phillips is (rightly in my view) concerned with this for two reasons. First, because of the personal and political implications of difference. In many situations of inequality:

the initial assumption of difference was not just a misperception. It reflected a genuine difference (an inequality) in respect of resources or status or security or power' (Phillips, 2015, p. 57).

We should indeed be wary of theorising and activities which rely on *us* as privileged agents of change recognising others *in spite of* their differences. For Phillips, differences matter, both to 'what we are as humans' and as reasons for 'being denied equal status or respect' (Phillips, 2015, p. 36). Given the importance of differences, the solution to denials of equal standing should not seek to set difference aside and 'merely insist on [...] humanity' (Phillips, 2015, p. 41). In her account, there is no core self, 'the humanity we share'. Rather, we are contingent, embodied beings (Phillips, 2015, p. 36).

Phillips' second reason for rejecting Rorty's focus on *we* and *us* is the passivity it implies on the part of *them*. In differentiating equality from justice, she posits the latter as 'the justice that those who have and can owe to those who have not and cannot' (Phillips, 2015, p. 5). Justice-based approaches, in her view, allow 'us to see the less fortunate as [...] passive recipients [...] waiting for us to help them' (Phillips, 2015, p. 5). This is a problem that Phillips identifies not only with Rorty, but also with the global justice literature, and with humanitarianism (Phillips, 2015, Chapter 1).

In Rorty's case, other aspects of his account, in particular his emphasis on 'ironic' liberals as co-authors of morality not only start with, but actually require the privileged conditions which are also conditions of hierarchy, exclusion and inequality (see Staples, 2012a). A more thorough commitment to equality will therefore require that we acknowledge, rather than efface, or even reproduce 'the pervasive and insidious nature of social domination' (McNay, 2007, p. 8). Doing so raises difficult questions about how it might be possible for those not yet recognised as of fully equal standing to make claims to it. In the background not only to Rorty's sentimental education, but also to Phillips account of the human is the unstated or at least unreflective association of morality (Rorty) and politics (Phillips) with given political communities.

The very title of Phillips' book articulates her claim that being human is a political matter. However,

the concept of the political is implicit, rather than explicit, in the lectures comprising the book. As noted, she tells us that equality is both claim *and* commitment (Phillips, 2015, p. 77), and it is strongly implied that the former is most important. This follows from her critique of Rorty, and her desire to articulate a political space for claims on the part of those presently unrecognised. It does, however, leave the sources of commitment somewhat unclear. It is not, presumably, the *we* of Rorty's sympathetic liberalism. As already mentioned, Phillips rejects the idea that commitments to equality only arise in the state. However, the claim/commitment dynamic presumes an encounter between claimant and community, and though the early part of the book addresses colonial encounters,ⁱ other examplesⁱⁱ presume the context of a (liberal) state.

There are repeated references to 'societies', which 'fall short of equality in power' (Phillips, 2015, p. 1), and which experience 'racism, xenophobia, misogyny, ultranationalism' which treat differences as 'incompatible with living peacefully *side by side*' (Phillips, 2015, p. 10 – my emphasis). Though the emphasis on (and her interest elsewhere in) multiculturalism acknowledge the relationship between migration, difference, and equality, we don't learn much about humanity in the wider sense which implies some equality beyond the state. Perhaps this is unavoidable given the stipulation that equality must be actively claimed, rather than extended by 'those already securely established' (Phillips, 2015, p. 5). This presumes the kind of encounter and institutional framework provided by the state. While she observes that we might anticipate, for our fellow humans, that 'we are equally worthy of respect' (Phillips, 2015, p. 72), the differences between our 'fellow citizens' (Phillips, 2015, p. 72) and 'fellow humans' are not really examined.

This is frustrating inasmuch as it fails to address some of the most fundamental and consequential divisions we maintain between people (Phillips, 2015, p. 1), that is, the divisions between states. This criticism can be levelled at other recognition theories (see Staples, 2012b), many of which simultaneously overstate the impartial character of rights-respect within states, and underestimate the exclusions generated by division of people in the wider state system. I don't think that Phillips can easily be accused of the former; she clearly perceives the contingent and political aspects of recognition and standing, and the importance of power. Even so, the ambiguity over the relationship between commitment and the state, and the repeated reference to claims made within political communities, suggest that she has in mind liberal, democratic states in which there is an institutional commitment (though unrealised) to formal equality. It seems odd on that basis to set this up as a politics of *the human* (rather than a politics of political equality). It is also odd that the engagement with Arendt does not lead to more reflection overall on the mediation of humanity by the divisive, particularistic institution of the sovereign state system.

Given her critique of Rorty's secure, sympathetic liberal, it follows that the claim is of vital

importance. However, she acknowledges (following Rancière) that a claim is an ‘enactment of equality against the odds, against the consensus, by those not currently regarded as members’ (Phillips, 2015, p. 77). There is an important difference here between members and non-members which Phillips should probably (on her own account of difference) say more about. However, in spite of several references to refugees (Phillips 2015, pp. 65-6; p. 79), Phillips leaves the divisions between members and non-members largely unexamined. This wide inequality of status makes claiming difficult (in her words ‘against the odds’), though not impossible.

The depiction of refugees and other marginalized groups as passive recipients is certainly both inaccurate and undesirable. However, in Phillips’ own words to deny (or, more fairly, to overlook) the significance of differences (Phillips, 2015, p. 14) of power and status is equally undesirable. To paraphrase Hemingway (Phillips, 2015, p. 57): refugees and stateless people *are* different from us. Their personhood (if not their humanity) is in question. Acknowledging this difference entails addressing the exclusionary power of the state, and the enactment of new commitments to equality. This suggests in turn that equality is only *partly* enacted in the claiming. Or, perhaps more accurately, that *humanity* is enacted by the claim, whereas equality and personhood entail a range of commitments. This more rounded account sees claim and commitment as part of an intersubjective politics of the human.ⁱⁱⁱ

Knowing, recognising, creating

Claiming personhood or equality are complicated not only in theory, but also in practice. As understood in the policy documents of the UN High Commissioner for Refugees, claiming asylum is not, as is often thought, a *request* for sanctuary, but rather a claim of the kind envisaged by Phillips. To claim asylum is to *assert* one’s inability or unwillingness, due to risk of persecution, to return to one’s own country. Though the difference may appear subtle, the intention is revealed by UNHCR’s argument that refugee status determination is declaratory rather than constitutive. This entails that a ‘successful’ asylum claim *confirms* rather than *grants* a person’s refugee status. Refugee status, on this understanding, is not conditional on recognition.

In many ways, this approach to refugee status determination is a useful approach to humanity. Perhaps the most obvious advantage is that it reduces (or at least, *appears* to reduce) the power of the state over humanity. The state authority, or so this account would suggest, has no constitutive power over the status of the claimant. Instead, state authorities are tasked with acknowledging or determining the truth. A politics (rather than epistemology) of the human obviously rejects the idea that there is always an objective, discoverable ‘truth’ about such matters. Even so, the current regime can only work tolerably well if refugees and determining authorities share understandings about persecution. When it comes to perhaps the most significant protection of the 1951 Refugee

Convention, the protection from *refoulement*, effectiveness will rely also on shared understandings of threats to life, liberty and security of person. Beyond this conceptual knowledge, it will also rely – if it is to function as intended – on shared knowledge about the situation in a third country. In other words, for the process of claiming asylum to work effectively, there must be, if not objective truths about the meaning of persecution and threat or the situation in a given country, then at least shared understandings sufficient for a reasoned discussion to be had, and a conclusion reached. In the real world, given the power differentials between refugees and state authorities, it is hard to avoid the conclusion that, as a matter of fact, the determining authorities hold a (significant) degree of constitutive power over the human.

At the end of Chapter 2, Phillips uses the concept of recognition, referring in various places to the political nature of ‘recognising others as equals’ (Phillips, 2015, p. 44). Later on, however, she identifies a problem with the concept of recognition, claiming that:

recognising others as our human equals is not best understood as a process of recognition. Recognise is not really the right term here, for it suggest an uncovering of something previously concealed but already in existence, a finding out rather than creation [...] the idea of recognition continues to suggest one group according or granting recognition to another (Phillips, 2015, p. 45)

Phillips has ably demonstrated the problems associated with the quest for an essence of humanity, and with top-down approaches to the politics of the human, and here she makes the additional point that recognition implies the identification, by a powerful actor, of something already known. A distinction between finding and creating seems to inform Phillips’ unease with the term ‘recognition’. However, ‘creation’ (or ‘constitution’) arguably entails a degree of recognition on the part of others, which probably explains Phillips’ still frequent use of the term throughout the book.

When it comes to statehood, and to refugee status, it is the declaratory approach which implies uncovering an objective standing. By contrast, the constitutive theory holds that the existence or standing of a state is contingent on its recognition as such by other states. It may, however, be possible to reconcile these two apparently contradictory approaches to standing. In the constitutive theory of personality outlined by Mervyn Frost (1996), recognition matters. This doesn’t necessarily mean that human or person are just empty words absent recognition. Nor does recognition entail uncovering something ‘already in existence’ *in the particular human or group*. It entails recognition *of the implications of the commitments we have already made*.

In recent literature on statehood, there is growing interest in synthesising the uncovering of declaratory theory with the recognition in constitutive theory (e.g. Worster, 2009). Similarly, recent approaches to determining whether a particular human is stateless reject a clear division between *de jure* and *de facto* variants, recognising that determining statelessness requires a mixed assessment of fact and law. A politics of the human informed by these debates suggests the need to acknowledge that humanity rests neither on essentialism, nor only on claims, but on a range of complex, intersubjective interactions or perhaps practices of personhood, in which humanity is claimed, acknowledged, and constituted.

Quasi-foundationalism

As already noted, Phillips seeks to produce a politics of the human that is anti-foundational; rooted only in the contingencies and inequalities of particular humans and particular societies. Her account might therefore be described as quasi-foundational. Molly Cochran describes quasi-foundationalism as an approach to standing that is at the ‘contingent end of the spectrum of ways of defending ethical claims’ (Cochran, 1999, p. 168). A quasi-foundational approach to standing may also help us see that acknowledging privilege and inequality is not necessarily a problematic exercise in power or paternalism.^{iv} Rather, acknowledging the implications of the full range of our commitments may be a vital aspect of the politics of the human. Claiming can be interpreted as staking a claim in something bigger than oneself, whether this is a contingent community, or a vision of a shared future. Understood this way, it is inescapably intersubjective, involving (potentially at least) the currently unrecognised, the privileged, and those in between.

Phillips states that there is:

an important difference between claiming one’s humanity and rights, where the equality is enacted in the moment of claiming it, and being awarded that status and rights because those with the power to grant it have become convinced that this is required by justice’ (Phillips, 2015, p. 75).

Indeed, there is, but a range of commitments can bridge the divide between claiming and granting what is required by justice. If we are to assess the commitments which form the quasi-foundation of claims to, and recognition of, humanity, we cannot help but look to the state. Though, as I have already argued, Phillips tends to assume the centrality of the state (in spite of her assertion to the contrary), engaging directly with the scope and limits of the commitments of actual states might help us to better understand divisions between persons. I think that Phillips might agree. In chapter 2, she makes the point that:

The further we go [...] in the direction of contentless abstraction – the less capable we become of addressing the inequalities that first inspired talk of human rights, humanitarianism, or global justice (Phillips, 2015, pp. 40-1).

Abstracting from the practices and encounters which constitute the standing of humans, and their division only takes us so far. I have tried here to contend that a constitutive approach, rooted in real inequalities can help us think anew about the politics of the human.

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ⁱ Such as ‘the debates about whether the South American Indians had souls or pygmies were human’ (Phillips, 2015, p. 9).

ⁱⁱ ‘When Britons notice [...] young Muslim girls in headscarves’ (Phillips, 2015, p. 57); ‘when Rosa Parks asserts her right to sit where she chooses on the bus’ (Phillips, 2015, p. 77).

ⁱⁱⁱ In Chapter 2, Phillips distinguishes between human beings and persons, where personhood is a normative status (Phillips 2015, 24-5) rather than the name of a species (Phillips, 2015, pp. 17-18). It may actually be useful to distinguish personhood and humanity, where the former is understood as created or constituted by commitments, recognition and species humanity.

^{iv} Cf. Pin-Fat, this Critical Exchange, which addresses the intersubjective dimensions of the politics of the human, and conceives of it as an ethico-political rather than epistemological question.