

Building a Human Rights Culture
South African and
Swedish Perspectives

Karin Sporre &
H Russel Botman [eds.]

OFFPRINT 2018

HÖGSKOLAN DALARNA

REPORT 2003:11

ARTS & EDUCATION

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Karin Sporre and H Russel Botman for selection;

Karin Sporre for editorial material;

individual contributors for their contribution

Report from Arts & Education,

Högskolan Dalarna, 2003:11

ISSN 1403-6878

Second edition, electronic version 2018

ISBN 978-91-88679-19-2

The report is financially supported by SIDA,

Swedish International Development Cooperation Agency,

Department for Democracy and Social Development, Education Division

Graphic design Eva Kvarnström, Oform

Printed by Strållins 2003

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SENTIMENT AND THE SPREAD OF A HUMAN RIGHTS CULTURE

BY J P ABRAHAMS

We live in an age of a rapidly expanding culture of human rights since the first Universal Declaration of Human Rights was made in 1948. Yet in South Africa with its traumatic history of, *inter alia*, racial oppression a Bill of Rights was only accepted late in 1996 and enacted on 4 February 1997. The constitution of 1854 of the old Boer Republic of the Orange Free State, a sovereign territory in the larger South Africa at the time, did include a charter of fundamental rights, but it disappeared with unification in 1910 and in any case did not provide equal rights for Blacks.

Given the diversity of cultures, languages, religions and even moral praxes in South Africa, the question arises whether the cause of this praiseworthy moral progress in the history of South Africa is due to progress in her moral knowledge. Have South Africans now acquired knowledge about what it means to be a good human being that they previously lacked? More universally though, do those societies that have already incorporated human rights into their constitutions have some additional moral knowledge that those who have not yet done so, do not have? Articulating the question in this way does imply, however, that we have some notion of what we regard as “best”. It also raises the question whether any significant answer can be given to the question about the cause of moral progress without also stating what one deems to be “best”, because how can we talk about moral progress if we do not know what it is that we are progressing towards.

With regard to the first question about additional moral knowledge as the cause of moral progress as indicated by, at the very least, the enactment of a Bill of Rights in post-apartheid South Africa, I agree with Rorty who responds negatively to the universal question by positing instead that the causal work is done by what he calls “sentimental education” (1998:180). In other words, for me Rorty’s view implies that South Africans have not discovered a universally accepted definition of what it means to be a “human being” and they have not

been able to erect a new morality that legitimised a charter of human rights on the foundation of the knowledge of this definition they allegedly have. The point is rather, for Rorty and for me, that such a definition and the supposed, concomitant knowledge of it are not prerequisites for the building of a human rights culture.

Rorty, born in the USA in 1931, made what we can term the key projects of modernity the major target of his criticism. Among these key projects we can count metaphysics and epistemology, two of the major philosophical achievements of the 17th and 18th Western World. In other words, at the centre of his life's work are the efforts to expose the fluidity or inherent contestability of such notions as "truth", "knowledge" and "objectivity". In his first major work, *Philosophy and the Mirror of Nature*, Rorty sets out to demonstrate that there are no final and immutable essences of any kind in our minds that are mirrored in the extra-mental world. This has earned him the label of "irrationalist", particularly as his proposed alternative is to show the pragmatist alternative, as he sees it, of what culture would be like without the dominating metaphors of modernity of mind and knowledge.

I need to stress though that my agreement with Richard Rorty is based on critical scrutiny of his arguments, rather than on either a loyalty to him of any kind or to any tradition to which he might belong. In this paper I examine critically, on the one hand, his arguments against moral foundationalism, the view that our distinctions between what is morally good and bad are based upon a firm basis such as the decrees of a god, some religious beliefs or some view of human nature. For Kant, for example, morality had nothing to do with sentiment. Our decisions about what is good and what is bad has nothing to do with such things as friendship, trust, love and social solidarity, but is determined solely by a distinctively human capacity called our "sense of moral obligation". The latter capacity would not be particular to members of any particular group of people, but would cut across all cultures universally. As such this is typical moral foundationalism, because it founds morality on our supposed sense of moral obligation

On the other hand I also examine his reasoning in favour of sentimental education, and draw out some implications of the meaning of the notion of sentimental education. By "sentiment", in this paper, I mean "feeling" and in a moral context this use of the term "sentiment" has its origins in the view that the source of our moral judgements is not reason, but "feeling" or, then,

“sentiment”. An object of moral judgement can evoke a feeling of either pleasure or pain in an observer and one could say that the resultant judgement of either moral approval or disapproval is governed by sentiments of approval or disapproval. A “sentimental education” is thus an education of our feelings for the sake of promoting mutual human recognition.

The Dangers of Moral Foundationalism

If our reply to the question about the possession of superior moral knowledge were “Yes”, and we supported this positive response with a belief that what has driven this moral progress is knowledge of a special ingredient in the human make-up that enables us to distinguish between human beings and non-humans, and thus between those to whom human rights properly belong (human beings) and those who do not qualify for such rights (non-humans), then there would be grave danger. This danger would be the variety of conflicting notions of what that special ingredient is, for whatever the ingredient is conceived to be it would serve as the particular paradigm or model in terms of which a particular group of people judge the humanity or non-humanity of others. The example used by Rorty is that of Serbs in Bosnia who, using themselves as the paradigm of being human, judged Muslims to be less than human for the simple reason that they were “unlike” Serbs and ordered Muslim prisoners to bite off the penises of their fellow-prisoners. For the Serbs no human rights violations were committed, because they did not deal with human beings.

In the South African context the display of the late Sarah Baartman, a woman of Khoisan descent in the nude in public, is a case in point. Lured to London during the 19th century by a promise of wealth, her fate abroad turned out to be worse than that of an exotic animal, for she was exhibited naked in public because of her unusual anatomy. Upon her death in Paris a French scientist made a plaster cast of her corpse for continued display in a museum and her mortal remains were also preserved. The process of negotiating for the return of her remains was initiated by a simple, nostalgic poem written by a South African woman during her moments of loneliness whilst studying in the Netherlands. The gross violation of Baartman’s dignity in England and France, the two major colonial powers in Africa, was seen by South Africans as typical of the wide ranging human rights violations that were committed during the colonisation of Africa. Consequently the eventual return of Sarah Baartman’s remains to South Africa meant to the vast majority of South Africans the symbolic return

of their human dignity. Within the context of this paper, the perpetrators of the violation of Baartman's dignity signified through their conduct that they founded their recognition of humanity upon a particular physiological and anatomical picture which was a mirror reflection of themselves.

Furthering his argument, Rorty contends that there are at least three very popular ways in which people that regard themselves as the model or paradigm of being human differentiate between themselves and those whom they regard as not quite human ("borderline cases"). The unpleasant history of the policy of apartheid in South Africa, of course, bears ample witness in support of this contention and my own experience of it makes Rorty's contention very compelling. In the first instance our distinction between humans and animals is often not a distinction between all "featherless bipeds" and "the rest", but between some human beings and others that merely have a humanoid form. An example of the second instance is using the colour of the skin as the paradigm for being human and regarding those of another skin colour as children. In the third instance the paradigm of being human is being "male" – being a non-male is not quite human in the full sense.

Anti-essentialism: Arguments against "human nature"

On the basis of his contention about the ways in which we often distinguish between human beings and non-humans, Rorty proceeds by claiming, quite rightly I think, that in the history of Western thinking several honest philosophical attempts have been made to overcome this way of thinking by trying to find a fixed, universal essence or "human nature" that would serve as an infallible, universal guide to separate humans from non-humans. I support Rorty's comment that these attempts have not only been unsuccessful in explaining moral progress, but have also been unwitting sources for gross human rights violations. As he justifiably claims, for some, like Plato for example, our capacity to reason is that universal essence or special ingredient that supposedly distinguishes human beings from non-humans and by developing this ingredient, respect for all humans is established.¹ Clarifying his stance, Rorty names Nietzsche who, according to him, in sharp contrast to Plato, thinks that human nature is inherently brutal, causing us to rape, murder, steal, and so on.

1 Possibly the whole of Plato's *Republic* can be regarded as an extended discursive argument against Thrasymachus' stance that justice is whatever is to the advantage of the stronger – an argument which in the end does not succeed.

Although I disagree with Rorty's nomination of Nietzsche as arch exponent of this view, I support his argument that such a view demonstrates the futility of searching for a universal human essence or "nature". However, for Rorty the twentieth century made watershed intellectual progress by dropping this project of trying to discover what human nature is. The crucial realization that made the difference is that the most that we can say about ourselves is that we are "extraordinarily malleable" (Rorty 1998:170).² In other words, there is no fixed or given, universal human essence floating about and waiting to be discovered.

Arguments against Human Rights Foundationalism

The persistent efforts of the past to justify and accord human rights on the basis of what "human nature" is, is known as "human rights foundationalism". One thinks in this regard of the limited rights accorded to the English aristocracy by the charter known as the "Magna Carta" which is a clear example of a distinction between "human" and "less-than-human" on the basis of an inherited bloodline. The latter is no more than a biological metaphor for inheritance of an innate essence. Part of this foundationalist perspective is that the fixed, universal human nature or essence serves as a foundation upon which the superstructure of morality is based. A more recent and a lucid twentieth century example was the founding of a public morality based on colour in South Africa that was expressed juridically in an apartheid law, the "Immorality Act", that forbade intimacy across the so-called colour line and thereby infringing on the right to freedom of association. Moreover, informally and "non-juridically" in the Afrikaans language, one of South Africa's only two official languages during the years of apartheid, a string of racist terms developed, prefaced by the highly degrading racist label, "kaffir", to distinguish between the real and the "pseudo-human".³ Afrikaans literature from this period abounds with examples of depictions of blacks as incapable of "real virtue", for instance, but of whites alone as capable of it. These are concrete examples of a morality founded on the assumption that a certain moral essence accompanies a white skin.

In the Platonist tradition as judged by Rorty, since the essence of being human is to reason, only those who can reason can be moral. The moral progress

2 The existentialist tradition with its slogan of "Existence precedes essence" must have been a telling factor in this regard.

3 Losing any contest against an unworthy opponent, for instance, got to be known as a "kafferpak" (kaffir-hiding), which emphasized Black people as "unworthy" or pseudo-humanity.

of an expanding culture of human rights would then be due to increased rational persuasion of the unconverted. I am in partial agreement with Rorty here that this is not only an outmoded way of thinking; it also harbours the danger of withholding human rights from whomsoever we regard as “irrational”.⁴ My opinion in this regard is that besides the notion of “rationality” being contested itself, the recognition of the common humanity of “others” does not require an epistemologically or metaphysically justified conceptual grid of any kind. What Rorty needs to assert more emphatically though, is that once this initial recognition is gained, such conceptual grids need to be taken into consideration, for equally pragmatic considerations as for the initial recognition of mutual humanity. I have in mind here the eventual formal and legislative enactment of such recognition, as well as the eventual human rights culture building. Nevertheless, Rorty proposes a pragmatist approach to understanding why there has been significant moral progress in the area of human rights (1998:172).

What, then, does the pragmatist see as the “cause” of moral progress in the sphere of human rights? Rorty’s initial answer is negative in the sense that he claims that nothing that has anything to do with how we decide between what is morally good and morally bad can be used to separate human beings from animals (Rorty 1998:170). This stance has led to the charge of “cultural relativism” against his pragmatist proposal – the perspective that what is morally good or bad is relative to culture. As I see it, one implication of cultural relativism is, of course, that there can be no universal human rights. If in one culture it is morally unacceptable for husbands to beat their wives, then it is not necessarily unacceptable in another culture, which does not augur well for universal women’s rights. Another implication of cultural relativism is that no one would be able to claim that a human rights culture is morally superior to other cultures, as in fact Rorty does. Such superiority, for me, would not consist in knowledge that others lack, but merely in giving explicit expression and implementation to the recognition of human dignity.

4 What if we regard women, Blacks, children, gentiles, Jews or mentally retarded people, to name but a few, as irrational?

The Charge of Cultural Relativism

Rorty confirms that although a human rights culture is morally superior to other cultures, this is not a proof that there is indeed a universal human nature. According to his reasoning, moral superiority can only count as such a proof if such superiority is asserted to include a claim of superior knowledge, i.e. knowledge of a distinctively human attribute – a special ingredient. From the pragmatist perspective, however, it is not clear at all why one first has to have knowledge of some distinctive or special human ingredient before one can entrench respect for human dignity in human rights in a Bill of Rights. We do not first have to give a sophisticated intellectual account of what human nature is before we can justifiably show respect to those who are quite simply different from us.

The apparent strength of the presupposition that there is a fixed, universal human nature is that it indemnifies one from the charge of cultural relativism. In addition, if we assume rationality to be that distinctive human attribute and the attribute upon which morality is founded, the presupposition gains in strength. After all, on this understanding of what human nature is (viz. rationality) and its relationship to morality, cultural relativism is irrational. But rejecting rationality as the special human ingredient and as the basis of morality does not imply that one's system of moral beliefs is incoherent and contradictory. One could be as coherent and clear as possible about one's beliefs and the connections between them, without trying to prove the moral superiority of a human rights culture by appealing to some transcultural human nature.⁵

For Rorty, philosophy can at most summarize culturally influenced intuitions about what is right and what is wrong for the sake of building the predictability of public institutions. Such an exercise, amounting to generalizations and not justifications of those intuitions, would enhance awareness of our membership of a moral community, but for foundationalist thinkers, these generalizations are still in need of more basic support and according to them that basic support could be provided by knowledge about human nature (Rorty 1998:171).⁶ I surmise that this knowledge would then also be the decisive factor, for human rights foundationalists, in spreading a human rights culture. However, I think

5 Prior to a very closely-knit argument in their article "*Sentiment and Value*" Justin D'Arms and Daniel Jacobson point out that Hume himself who claimed that moral evaluation is grounded in sentiment, cautioned that refined reasoning paves the way for sentiment to make proper judgements (2000:722)

6 Cf. Plato, Kant and Aquinas.

that in contrast to this view that the initial impulse for the mutual recognition of human dignity cannot be provided by philosophy. But in so far as philosophy is a normal human activity, its role in establishing, defending and upholding a human rights culture is to cultivate the self-awareness of its limitations in this regard. One crucially important limitation is that of providing an eternal and immutable foundation for morality and human rights.

The End of Moral and Human Rights Foundationalism

Usually when we ask if such knowledge as is sought by the foundationalists is possible, we are said to be dealing with a matter of “epistemology” or theory of knowledge. Rorty, on the other hand, wants to answer that question pragmatically – he wants to show that the job of raising awareness of human rights and the enactment of the rights is not done in human rights societies by increased epistemological sophistication about “human nature”, but rather by “manipulating our feelings” (Rorty 1998: 172). I interpret Rorty to mean by “manipulating our feelings”, evoking feelings or sentiments of sympathy and compassion for others which, on the one hand, result in the approval of conduct that bear witness of the recognition of their human dignity and conduct that promote their good and, on the other hand, disapproval of conduct that denies mutual human dignity and harms the good of others. For Rorty there are some historically significant intellectual conditions that worked in the favour of sentiment, which I summarize below.

First is that despite the criticism that has so far been levelled at Plato and Kant as moral foundationalists, we can still appreciate their respective efforts to “prophesy”, as it were, “cosmopolitan utopias”. These so-called “prophesies”⁷ at least set in motion struggles to attain these ideal states which, in their turn, helped to advance progress towards a human rights culture. The objectionable part of Kant and Plato’s thinking, in Rorty’s opinion with which I concur, remains the importance that they attached to the question, “What is man?” and to the ability of human beings to “know”.

A second factor quite plausibly postulated by Rorty is that besides dropping the search for a distinctive human ingredient, the work of Charles Darwin not only further persuaded the West that human beings do not need a special, ad-

7 David Miller argues that the basis for making value judgements “is the temporal dimension of the human mind. It is when the response to the distant stimulus [“cosmopolitan utopias”] is internalised [...] that we are in a condition for passing primary value judgements...” (1947:63).

ded ingredient in order to evolve, but also did so with rather unexpected ease. This might well have been due to the belief that the philosopher is a specialist on the nature and limits of human knowledge was already on the wane when Darwin published his key work and because late 19th century historicism made the world even more sceptical about essentialism. Historicism is the view that the history of anything is a sufficient explanation of that thing, implying that besides the history of human beings, no additional essence or special ingredient is necessary for a sufficient explanation of what a human being is. The major achievement of this anti-essentialism of the late 19th century was to create space for intellectuals “to look to the future rather than to eternity” (Rorty 1998:174). In other words, the interest of humankind shifted from efforts to gain knowledge about eternal truths to concentrating on attainable and accountable projects for the future – projects like the culture of human rights.

Third, there is also some explanatory force for humanity’s moral progress in the increased wealth, literacy and leisure of the developed democracies (in Europe and America). They realized, Rorty theorizes, that by getting rid of slavery and feudalism they contributed to a better world – progress that needs no further non-historical explanation. The aggregate of the three explanatory factors for the decline of our interest in a-historical explanations for moral progress and the major lesson since the time of the French Revolution that we humans are extremely malleable, has resulted in the confidence to change or recreate ourselves. I support the view then that consequently, the key question has since become the one about the kind of world we would like to leave to our descendants, rather than about what we really are.

In spite of these developments there is an enduring popularity of interest in the question of what our a-historical nature is and in the suggested pointer that only human beings can know as well as feel. As a way of overcoming the enduring popularity of moral foundationalism Rorty proposes that we understand the difference between human beings and animals not to be that human beings can feel and animals not, but rather that human beings can feel for each other and to a much greater extent than animals (1998:176).⁸

8 In brief, love matters and in this regard this great moral narratives embodied in the teachings of Christ, Mohammed, Buddha and the Vedas, among others, make better sense than the belief that knowledge of the truth will set us free.

The end of moral foundationalism would then mean the possibility of focussing on what Rorty terms “sentimental education”. Such education, in his opinion, would eliminate that distance between human beings that makes us think that those who are different from us are less than human. The narrow confines of terms such as “our kind of people” or “our people” could be expanded.⁹

Factors Inhibiting the Spread of a Human Rights Culture

But why then is there still not a universal human rights culture? One factor that Rorty posits is the risky and insecure world outside Europe and America or those countries that have not yet been influenced by a human rights culture. But it is certainly not because of a lack of rationality on the part of the latter.

Experience in South Africa in the past and present bears strong witness to what Rorty non-quantifiably but plausibly observes to be a second factor. Frequently people who regard themselves the paradigm of humanity and who are the people that one would want to convince of the need for universal human rights claim that they are not aware that they have anything in common with those who are different from them and might even feel morally offended at the thought of doing unto others what they would have done unto themselves. So, for instance, when in the mid-eighties of the twentieth century a South African genealogist declared in public that he had found documentary evidence that several of the forefathers of the White Afrikaner “Volk”, including Paul Kruger, were descendants of a black slave woman from West Africa, he was threatened with legal action by one of the leading Afrikaner politicians of the day, the Reverend Andries Treurnicht. The latter was adamant that the claim was slanderous, implying not only that there was nothing in common between white and black in South Africa, but also that to assert so on whatever

9 In his day Plato, the arch-foundationalist, faced brutal, self-interested tyrants whom he tried to persuade that to be rational and therefore moral would be in their own interest. At least, that is one way I would suggest one can read the Republic. In the process Plato managed to convince us that knowledge of universal truths matters so much that he distracted the attention of moral philosophy from the real problem consisting of that category of people who treat only a limited number of fellow human beings (those who are like them) quite affably according to high moral principles, but who are coldly indifferent to the suffering of those unlike themselves. For Rorty this line of thinking by Plato, despite all the honesty of the endeavour, was wrong because it was addressed to psychopaths and mentally deranged egotists. And by placing morality on a foundation of rationality to counter them, he placed moral philosophy on a non-sentimental path. What the Serb example and the others illustrate is that problems of tragic proportions quite likely to arise if we see only members of “our moral community” as human – whether or not that community is one of sinners, believers, non-believers, blacks, whites, or racial and sexual “in-betweens”.

grounds was both morally and legally reprehensible. Rorty's explanation for this kind of reaction, which to my mind makes good sense, is that ever since "human being" meant one of our "tribe" or "group" we (members of a specific group, e.g. the Afrikaners) have tended to consider ourselves as real human beings (the paradigm of human beings) and others as pseudo-humans. Part of his postulation is that those Eurocentric thinkers who regard themselves as the paradigms of humanity on the grounds of their "use of reason", also tend to regard disagreement with them as due to prejudice, because distinguishing between right and wrong is in their opinion not so difficult. Indeed, they often nominate superstition and prejudice as the obstacles to agreement with them.

I think that in our South African context with its racist past, Rorty's diagnosis of the limits of placing faith in reason to do the work of building a human rights culture is particularly significant for both black and white South Africans. Borrowing from Rorty's language, eager as young white South Africans might be to redefine themselves in non-exclusive terms because they have been taught the wrongness of, inter alia, racial and religious prejudice, and have been sensitised to the indignities of the oppressed and the marginalized, their new inclusive identity might still be seriously limited. This would be so if they have been taught to exclude as "irrational" those whom they still find intolerable, like common criminals, black racists and rapists, to name but a few. Similarly young black South Africans would limit themselves in their new expanded identity if they abandoned as irrational those whom they still cannot tolerate.

Rorty's Alternative to Human Rights Foundationalism: Sentimental Education

On the basis of the South African experience, I am in full agreement with Rorty that it is not advisable to encourage people to call "irrational" those who are intolerant of society and intolerable in society. The reason that Rorty advances is that this label implies that "we", the good people, know something of which those people are ignorant and that it is through their own fault. His alternative proposal is that we think of such people as deprived of security and sympathy. The former is "conditions of life sufficiently risk-free (so) as to make one's difference from others inessential to one's self-respect, one's sense of worth". Crucially for the purposes of this paper, Rorty defines sympathy almost concretely rather than theoretically as "the sort of reactions Athenians had more of after seeing Aeschylus's *The Persians* than before, the sort whites in the United

States had more of after reading Uncle Tom's Cabin than before, the sort we have after watching television programs about the genocide in Bosnia." (1998: 180).¹⁰ Furthermore security and sympathy go together and one cannot have the one without the other.

Taking all the mentioned factors into consideration, Hume's view that "corrected (sometimes rule-corrected) sympathy, not law endorsing reason, is the fundamental moral capacity" is preferable for Rorty to Plato's notion of the true self and Kant's dictum that it is rational to be moral. In simpler terms this means that the most authentic sympathy, for Rorty, is that which is aroused and given spontaneously rather than dutifully or in fulfilment of a rule or command. Spontaneous recognition of mutual dignity is more likely to create trust among people of different backgrounds than recognition into which people are forced or coerced. Thus it seems prudent that in building a human rights culture, trust engendered by a spontaneous recognition of mutual dignity, rather than obligation "at gun-point", so to speak, to make such a recognition, becomes the fundamental moral notion. However, we cannot always wait for such spontaneity to happen and it is in such circumstances that through sentimental education we can encourage a progress of authentic sentiments of sympathy and the spread of a culture of human rights based on trust rather than obligation. This would be the kind of education that makes us see that the similarities between others and ourselves are much more important than the differences.

But this requires that philosophers and, perhaps the general public, eliminate resistance to sentiment as a persuasive force, a resistance that is quite persistent and which might be due to a vague awareness that this would mean giving our hope over to condescension. All those of a rationalistic bent might be vaguely aware that they would have to rely on those who have the power to change things, like journalists, playwrights, novelists and poets, for example, to portray victims as being more like us than we previously cared to admit.

D'Arms and Jacobson argue that sentimentalists don't have to claim that in making value judgements one has to actually feel, experience or be in possession of the appropriate sentiment. Instead, they reason, by making a value judgement one merely endorses the appropriate sentiment (2000:725). I would add that an implication of this argument is that the critical proviso to endorsing a sentiment meaningfully without actually experiencing it is that one at least has

10 In the South African contexts we recall such works as Alan Paton's *Cry The Beloved Country* and Elsa Joubert's *Die Swerfjare van Poppie Nongena*.

previous experience of it – that one at least knows what it is that one endorses. I further contend that art in its broadest sense of including, *inter alia*, literature and theatre, has a key role to play in educating the public about sentiments. Literary accounts of the dehumanisation of Sarah Baartman, for instance, expose readers to the humiliation of being dehumanised and evoke the desire to be safeguarded against such humiliation without the actual physical coercion to public exposure in the nude. After all, one of the pivotal moving causes of the efforts to restore Baartman's dignity as well as that of the anonymous multitude of women all over the world was a poem of sentiment.¹¹

In 1843 a slave woman, known only as “Belinda”, petitioned the Massachusetts legislature for compensation from the estate of the deceased owner Issac Royall for the injustices suffered by her as a slave. In a lucid analysis of the literary strategy of this petition, Jocelyn Moody reveals how Belinda appealed, via her interlocutor, to the sentiments of the Massachusetts legislature (2001:6ff.). We bear in mind that the members of the Massachusetts legislature ruled in favour of the petition, although they had themselves not ever been slaves. Clearly then their decision was not taken on rational grounds alone, but also on the basis of the sentimental appeal of her petition that exposed the legislature to the depravity of slavery.

I conclude from these historically documented examples, then, that the line of argument employed by Rorty that the causal work of promoting a human rights culture is done by a sentimental education, implies the reaffirmation of the value of recovering the major moral narratives of the world, particularly those contained in the religions of the world.

11 I refer here to the poem written by Dianne Ferrus referred to earlier.

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