

Reason, Justice and Dignity: A Journey to Some Unexplored Sources of Human Rights

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Reason, Justice and Dignity; A Journey to Some Unexplored Sources of Human Rights

by Peter Leuprecht

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This is a remarkable book, modest in size but rich in scope and contents. The author, Peter Leuprecht, served for many years as the Director of Human Rights of the Council of Europe and thereafter as the Deputy Secretary-General of this Organisation. He is known as a skilful policy-maker and a committed human rights advocate who, after he left the Council of Europe, went into academia in Canada. He has also demonstrated his vision and his commitment as the Special Representative of the United Nations Secretary-General for Human Rights in Cambodia. As a scholar and practitioner Peter Leuprecht is highly aware of present-day human rights policies and developments. This makes him an appealing companion to guide the interested reader on what he proposes is ‘a journey to some unexplored sources of human rights’.

The journey described in this book is one of leading and learning, as it stretches over periods of time, cultures and civilizations and constitutes a challenge to current human rights approaches. It is a journey of discoveries into the human quest for a public and social order that predates by far the well-known early declarations and statements about human rights proclaimed in the late 18th century. It is a journey to uncover notions and values that can be regarded as belonging to a common moral heritage of humankind, across

different cultures and civilizations, and underlying the basic assumptions enshrined in present-day universal human rights documents. Peter Leuprecht has chosen to organize his journey along three successive stages:

encompassing ancient China with a focus on the great teachers Confucius and Mencius, followed by the golden age of Islam setting forth three outstanding thinkers Avicenna (IbnSina), Averroes (IbnRushd) and IbnKhaldun, and he concludes the journey by drawing attention to what he calls two courageous ‘dissidents’ in 16th century Spain: Bartolomé de Las Casas and Francisco de Vitoria.

In the introduction (pp 1–4), the author gives a brief account of the motives which led him to explore the underlying sources of human rights and to publish this book. He mentions in this respect his long-standing active commitment to universal human rights, not only in a professional manner but also as a personal engagement, and in line with his deep conviction of the urgent need for cultural dialogue. He situates his undertaking against the background of the Charter of the United Nations and the Universal Declaration of Human Rights proclaimed as ‘a common standard of achievement for all peoples and all nations’.

At the same time, Leuprecht realistically observes that ‘universal’ human rights are far from being universally practised and respected and that not all world’s governments and leaders accept the aspiration of universality of human rights. In connection to this, he cites with approval the words of Kofi Annan that ‘it was never the people who complained of the universality of human rights, nor did the people consider human rights as a Western or Northern imposition. It was often their leaders who did so’ (p 2). This reviewer would add similar words attributed to Kofi Annan:

‘You do not need to explain the meaning of human rights to an Asian mother or African father whose son or daughter has been tortured or killed. They understand it – tragically – far better than we ever will’.

The author follows a pattern that is applied in all three stages of his journey. On the basis of a thorough study and analysis of the source materials, the thinkers stemming from successive civilizations are represented through their own words. The reader is invited to listen and to digest, and the author of the

book concludes every stage with the question ‘what have we discovered?’ This is also the general tenor of the final conclusion of the book ‘what have we discovered?’ and ‘what are we bringing home from our journey?’ In short, this is not a collection of theories and doctrines expounded by the author but a book of guidance and learning where the author accompanies the reader in the search for human values unearthed in reflections and discourses stemming from various civilizations.

When reading texts that originated in ancient China, in the golden age of Islam and in the era of the Christian conquest and imperialism, it is clear that these texts were not written in abstract terms but rather responded to the realities of life, both social and political. Thus, both Confucius and Mencius subordinated power to ethics, obviously in reaction to existing tendencies and practices of abuse of power by rulers and ruling classes. Mencius spoke words of eternal wisdom and truth: ‘the people are of supreme importance; the altars to the gods of earth and grain come next; and last comes the ruler’ (p 23).

As an aside, these words appear to come close to the essence of the Dutch Act of Abjuration of 1581, when the States-General of the Netherlands delegitimised the Spanish ruler since he proved to be no longer a prince who protected and supported his subjects but a tyrant who suppressed his people and therefore had no more worth as a ruler. A strong and thorough admonition against abuse of power – a recurring theme in the various stages of the journey – can be found in the writings of Bertolomé de Las Casas. In his *Brevísima relación de la destrucción de las Indias* and in his *Historia de las Indias* he took strong issue with the practices of conquest, imperialism, colonialism and intolerance insofar as the Christian religion was invoked as a justification and a pretext of man’s inhumanity to the ‘other’ human being called the ‘Indian’. Las Casas denounced in the strongest terms the crimes committed by whom he called ‘the tyrants of the Indies’. He has consequently been called ‘the father of the Indians’ and, as Peter Leuprecht notes, many people still regard him as the father of the liberation theology (p 77).

As is evident and substantiated in this book, each of the seven great thinkers who are selected in the three stages of the journey as inspiring members of their cultures and civilizations, left a lasting and undeniable imprint on the history of mankind’s endeavours to come to grips with a social and political order based on the precepts of, as the title of the book indicates, reason, justice and dignity. Thus, in the first stage of the journey Leuprecht

summarises the thinking of Confucius and Mencius in ancient China under the heading ‘harmony through humaneness’ (ch 1). In the second stage, when the world of Islam was far ahead of Christian Europe in science, medicine and philosophy (p 31), Leuprecht sees as the central theme the relationship between ‘faith and reason’ (ch 2). And the last stage of the journey is characterised by the plea for ‘the equal dignity of others’ (ch 3).

In his introduction, Peter Leuprecht stresses that throughout the journey he tries to avoid projecting present-day concepts and frameworks of analysis onto earlier periods and that his aim is to let civilizations and thinkers speak for themselves. When reviewing this book as a documented account of the journey, the reader will agree that the author has by and large succeeded in being faithful to this approach, leaving it to the reader to draw lines to contemporary human rights discourses and approaches. All three stages of the journey set examples and reveal great wisdom, presenting precious insights into fundamental values of human relationships. One illustration of this is the relationship between the ruler and the people already referred to above.

The present reviewer cannot help but confess that, with contemporary human rights approaches in mind and living in a post-modern and, what some may call, a post-‘Christian’ society, he was most attracted to the writings of Las Casas, in particular in his assertion that the ‘Indian’, like other human beings are ‘created in the image of God and redeemed by his blood’, and endowed with reason and dignity (p 84). Las Casas rejected the claim that European culture is superior and declared that the pre-Columbian peoples are at least as civilised as the Europeans (p 84). Las Casas resonates in the present day, bringing home issues of persistent discrimination, marginalisation and exclusion of indigenous peoples in the Americas and elsewhere in the world. He also brings home the policies with xenophobic overtones of post-‘Christian’ Europe used to fence the region off from the ‘others’ in Africa and Asia who turn to Europe. Las Casas further brings home the pretexts and pretensions of present-day politicians, as well as of religious and secular fundamentalists, about superiority and inferiority of religions, cultures and civilizations.

Leuprecht does not explicitly draw these lines from the thinkers he visits to actual and present-day policies and practices. But he could not resist the temptation to be more than implicit on several occasions. Thus, ‘it must be said that Western perceptions of other cultures and traditions are often biased,

distorted – and coloured by a regrettable tendency to look down on all forms of "otherness" (p 28). Leuprecht discovers 'an Islam different from some of the caricatures presented in the West' (p 65), and he takes issue with this in a quote to the effect that '... it must be recognized that the declaration of the rights of man is a cultural fruit of the Christian world ...' (p 72).

The author's voyage and his discoveries bring to light a variety of values and notions that underlie human rights as understood today, in terms of truth and freedom, justice and equality, limitations on power, abuses and redress, the limits of warfare and the common origin of humankind. No civilization, no culture and no religion may claim to be the exclusive source in this respect, as if Europe with its Judeo-Christian tradition possesses the sole and exclusive credentials of a human rights culture. However, insofar as the European political and social order had a major impact on freedom, democracy and the rule of law, it is the conversion of these basic human and social values into legal rights and obligations as standards of achievement and, as the case may be, standards of enforcement. Here again, insofar as the role and the rule of law is concerned, one finds interesting discoveries in Leuprecht's journey. Confucius was apparently not inclined to rely on the enforcement of laws but rather on inducement and persuasion so as to achieve justice without, or with a minimum of laws (p 16). But IbnKaldun, appraised as one of the most fascinating figures in the Arab Islamic tradition (p 57), strongly emphasised the role of law and the principle of equality before the law in order to combat patterns and practices of injustice. He also repeatedly stressed the importance of judges (p 63). And of course, Leuprecht gives due credit to Vitoria who had a decisive influence on the development of international law, and especially on Hugo Grotius and the shaping of the law of nations (*ius gentium*) in the sense of the universal law of humanity and the law of international relations (pp 98–100).

The reader who travels as a companion in Peter Leuprecht's intriguing undertaking may wonder why the author of this journey's narrative has specifically chosen these seven great thinkers from ancient China, the golden age of Islam and 16th century Spain as his frame of reference and as the font of his discoveries. Would other thinkers and leaders from various civilizations and cultures lead to similar discoveries and findings? In this respect the impressive anthology of some thousand fragments of texts on human rights, brought together by UNESCO from the third millenary B.C. up to 1948, the

year of the adoption of the Universal Declaration of Human Rights, drawn from all continents and a wide variety of cultures, triggers this question. In 'Birthright of Man', published by UNESCO at the occasion of the twentieth anniversary of the Universal Declaration, Confucius, Mencius, Las Casas and Vitoria figure among hundreds of others whose writings reveal basic notions and a wide range of themes that underlie the Universal Declaration. This UNESCO publication may well serve as a source and incentive to undertake more journeys of the type carried out by Leuprecht.

Another thought that comes to the reader's mind is, as already noted above, the line between the high moral calibre of the thinkers visited and the actual policies and practices of those who may pretend to stand in their traditions. Leuprecht who allows the thinkers to speak for themselves, was reticent to draw such a line explicitly.

But, quite interestingly, he does not hesitate to comment on the role and reach of the Islamic shar'ia. He points out that the mere three points where the word shar'ia appears in the Qur'an, it means 'the way' and not 'law' and that religion now risks being taken prisoner by lawyers and legislation. For Islam, as Leuprecht argues with reference to the Cairo Declaration on Human Rights in Islam adopted in 1990 by the Member States of the Islamic Conference, the two main stumbling blocks so far on the path to human rights would seem to be freedom of conscience and religion, and interpretation of the shar'ia. But he adds immediately that the relationship between faith and reason is by no means a problem exclusive to Islam but one which is shared by the Christian and Jewish religions as well (pp 66–67).

As a final observation this reviewer wishes to fully endorse Peter Leuprecht's openness to the 'other', including his findings and his conviction that widespread ignorance, contempt and even hostility in Western attitudes to other cultures and civilizations is misplaced and that intercultural and inter-religious dialogue is a major condition to move forward on the road towards the universalization of human rights, not only as a laudable concept but also as a common standard of achievement.