

Populism and Universal Human Rights

1. *Trends and Developments*

In Europe, the United States of America and elsewhere in the world there is a notable trend in political and social mentality that turns away from an inclusive society. It alienates itself from the opening preambular paragraph of the Universal Declaration of Human Rights which recognizes “the inherent integrity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world”.

After the remarkable events leading to the collapse of the Berlin Wall in 1989, marking the end of the Cold War and opening up new modalities of international cooperation through the design of agendas for peace and development, the Vienna World Conference on Human Rights (1993) stated solemnly that the universal nature of human rights and fundamental freedoms is beyond question and reaffirmed the right of all peoples to self-determination. In Vienna due attention was given to the interdependence and the mutually reinforcing nature of democracy, development and respect for human rights and fundamental freedoms. It appeared at that time after the fall of the Berlin Wall that the era of walls, fences and narrow gateways was belonging to the past and that open borders were the prospect of the future. So it was at least envisioned in the framework of the European Communities (later European Union), based on the free circulation of persons, services and commodities. However, a major setback occurred on 11 September 2001 (9/11) with the terrorist attacks against the twin towers in New York and the Ministry of Defense in Washington DC leading to the self-proclaimed “war on terror” as the highest priority. This so-called war had serious erosive effects on human rights, notably by the use of methods breaching the absolute prohibition of torture, irrespective borders and without limits.

It was already prior to the dramatic events of 9/11 that Samuel Huntington launched his hypothesis of a *clash of civilizations* that people’s adverse cultural and religious identities will be the primary source of conflict. It raised the question whether “West versus the Rest” would be the watchword of the future. In fact, in present days of rising populism new barriers and new walls are designed or actually constructed, so as to close for instance borders between the USA and Mexico and fencing off the State of Israel and the Occupied Palestinian Territories. Similar constructions are being erected in the Balkans and in Central and Southern Europe to halt refugees from Syria, Sudan and Ethiopia and migrants from other African countries who seek protection, safety and well-being in affluent parts of Europe. Now that “other persons” with their own distinct race, religion, descent, ethnic and national origin seek access to Europe, often risking their lives and exploited by criminal smugglers, basic normative human rights and humanitarian law instruments turn into or remain a dead letter.

The “other persons”, if at all they manage to reach and stay in an affluent Europe, are in many ways facing xenophobic and overly patriotic attitudes of ethnic nationalism by partisans of a populist kind and their adherents who serve themselves with “alternative” information and half-truths. They do not hesitate to denounce the “others” as a potential or actual threat to national identity and therefore deserve to be treated as outsiders or even outcasts. We are currently facing a political and social climate in Europe where political leaders of the far right, among others Mr. Wilders (the Netherlands), Madame Le Pen (France), Mr. Farage (UK), Frau Petry (Germany), Mr. Hofer (Austria),

are waving the same xenophobic flag and spreading the same racist message of “Our Own People First”. Mr. Trump’s “America First” is the very proto-type of the same kind which, if not counter-balanced by the prevalence of the rule of law and respect for human dignity and equality, would pose a major menace to an all-inclusive social and international order in which the rights and freedoms set forth in the Universal Declaration can be fully realized (Article 28 UDHR).

2. *Inclusion and Exclusion*

“Inclusion” and “Exclusion” are key concepts in assessing the defiance of present-day populism. The Law of Nations and more specifically the Law of the United Nations has evolved over the years from exclusion to inclusion, between the stagnation of marginalization and the impact of globalization, between the threat of fear and the state of safety. Against this background the law and practice resulting from claims of national sovereignty has progressed towards the law of international cooperation and participation. It is against the same background that collaborative partnership within nations and among nations is envisioned as a means to secure a sustainable future for present and future generations.

In the dark days of World War II US President Franklin D. Roosevelt unfolded in a famous State of the Union address his message of *Four Freedoms* to be attained everywhere in the world: freedom of speech and expression, freedom of worship, freedom from want and freedom from fear. The vision propounded at that time by Roosevelt laid the basis for the universality, the inclusiveness and the indivisibility of the whole spectrum of human rights. It stands in sharp contrast with President Trump’s recent inaugural speech and with his repulsive and exclusionist slogan of “America First”.

The normative human rights edifice built on the basis of a series of international instruments encompasses individual persons and groups who for long were (and often still are) in a state of permanent discrimination, marginalization and social exclusion. Among these are ethnic minorities, sexual minorities, indigenous peoples, mentally and physically disabled persons, children born of wartime rape. They have become part of a lengthy process from exclusion to inclusion. But they do not figure on the agendas of populists who preach and practise ethnic nationalism and patriotism and embrace theories and ideas of racist and religious superiority and exclusiveness and foment racial and religious prejudice and discrimination.

Populist leaders and their followers use to stage themselves on a platform of self-serving myopic nationalist interests. They hold a variety of features and ways of behaviour in common which often defy the rule of law, the upholding of democratic values and respect for human rights. To the category of populist postures belong the cherishing of national traditions in history, culture and religion as well as the denunciation of an independent judiciary, in particular in cases where court decisions run counter populist claims. Furthermore, it is a matter of serious concern, notably evident in the behaviour of US President Donald Trump to consistently rule out certain sectors of the free press and to manipulate factual truths by the spreading through social media of “alternative” or fake truths.

3. *An Agonizing Appraisal*

The features and characteristics of populism appear to be on the rise in Europe and in the USA. Are they developing into a permanent nationalistic blueprint of the world order? Are we further moving in the direction of a *clash of civilizations* as referred to earlier? Is the vision of transforming the world into peaceful, just and inclusive societies, free from want and free from fear, merely a fiction as an idealistic and naïve global project? Are we on the way towards the anti-human rights paradigm of survival of the fittest and the self-centered “own people first”? These are agonizing questions to all who recognize that attachment to the rule of law must guide nations as well as national and international institutions on the basis of predictability, transparency, legitimacy, without discrimination and exclusion.

A compelling response to trends and manifestations of populism is a rededication to human rights and fundamental freedoms proclaimed in the International Bill of Human Rights. Further, all efforts must be deployed to strictly observe the rule of law, the equity and integrity of governance as well as the exposure of corruption and the misuse of public office for private purposes. An essential condition for dealing with competence and fairness in the administration of justice and the defense of the values of democracy is the upholding of a fair and equitable balance of powers between the legislative, the judicial and the executive branches of government. It is fundamentally wrong and at variance with the impartiality and the integrity of the judiciary when a populist leader such as Trump disqualifies independent members of the judiciary as unfit to carry out their duties by labelling them as “so-called” judges.

An essential feature of democratic and public control, particularly in these days of increasing impact of social media and the launching of fake news, is upholding the reliability and transparency of sources and distributors of information. In an era of nationalistic seclusion and social exclusion, the plight of minorities, in particular sexual minorities, indigenous peoples, refugees, migrants and people of different colour, descent, creed, ethnic or national origin, is in many situations essentially at stake. Rendering justice to minorities, in pursuit of the imperative demand to combat racial and religious discrimination, xenophobia and related intolerance, is a key requirement of open democracy and must be a fundamental ingredient of training and education at all levels. The above observations are meant to serve as a lending hand in overcoming the repulsive forces of egocentric populism. They are written from a European perspective but their implications exceed geographical boundaries.

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Maastricht, March 2017

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