



Emotions and Human Rights

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In December of the year 2006, a workshop on “Human Dignity: Religious and Historical Aspects,” was held in Jerusalem, under the sponsorship of the Israel Academy of Sciences and Humanities. This was the first of three such workshops, organized by the Union Académique Internationale, the global society of national academies in the humanities and social sciences. Subsequent conferences were held the following year in Rabat, on the “Sociological, Ethical and Bioethical Aspects” of Human Dignity, hosted by the Royal Academy of Morocco, and in Barcelona, on “Philosophical and Juridical Aspects,” under the auspices of the Institute of Catalan Studies. The workshops were to be preliminary to a long-term project, supported by UNESCO and the European Science Foundation, on called *Pathways of Human Dignity: From Cultural Traditions to a New Paradigm*. The project stemmed from a sense that “contemporary reflection on human rights seems to have fallen short” of meeting “the demand for a respect of our fellow humans,” and that this deficiency might be compensated, at least in part, by a focus on the concept of human dignity, which was “still in need of a thorough comparative study across history and civilizations.”

The initial workshop included papers on dignity in Confucian thought, ancient and mediaeval India, dignity in Zoroastrian religion, Buddhism, the rabbinic tradition, Islam, Christianity, and more, and was remarkable for the participation of scholars from the Palestinian territories as well as from Israel. My own contribution to the proceedings took the form of a

question: “Was There a Notion of Human Dignity in the Classical World?”¹ It is a question that is still, I think, in need of a proper answer.

What we can say is that there was little if any sense that human beings, simply by virtue of their humanity, were entitled to a special regard. In an incisive survey of warfare in classical Greece, Kurt Raaflaub, in an essay on “The Brutality of War and Its Impact on the Community” in classical antiquity, quotes the historian Xenophon – who was, by the way, a disciple of Socrates and also wrote Socratic dialogues – for the rule of thumb concerning the treatment of those who have been conquered in war. Cyrus, who is represented as the ideal monarch in Xenophon’s quasi-novelistic work called *Cyropaedia* or *The Education of Cyrus*, addresses his troops after the conquest of Babylon as follows: “Friends and allies, thanks be above all to the gods that they have vouchsafed to us to obtain all that we thought we deserved. For now we are in possession of broad and fertile lands and of subjects to support us by tilling them; we have houses also and furniture in them. And let not one of you think that in having these things he has what does not belong to him; for it is a law established for all time among all men that when a city is taken in war, the persons and the property of the inhabitants thereof belong to the captors. It will, therefore, be no injustice for you to keep what you have, but if you let them keep anything, it will be only out of generosity that you do not take it away” (*Cyropaedia* 7.5.72-73). Raaflaub comments: “the decision about the fate of the population of a captured city was entirely the victor’s, and this decision was usually driven by pragmatic and economic, not humanitarian, considerations. There was no Geneva Convention, and no facilities existed to keep or employ large numbers of prisoners. The easiest solution thus was to kill the surviving men in fighting

¹ Published in Spanish under the title, “Hubo un concepto de la dignidad humana en la antigüedad clásica?” in Silvia Aquino, Mariateresa Galaz, David García Pérez and Omar Álvarez Salas, eds., *La fascinación por la palabra: Homenaje a Paola Vianello* (Mexico City: Universidad Nacional Autónoma de México, 2011) 285-93.

age. Estimates are that this happened in 20–25 percent of known instances and that in a slightly larger percentage of cases they were sold into slavery.”²

The historian Polybius, who spent seventeen years as a hostage in Rome in the second century BC, describes in his *Histories* how Antigonus Doseon of Macedon, together with the Achaean general Aratus, besieged the city of Mantinea, which subsequently surrendered. Now, Polybius tells us that, according to a rival historian named Phylarchus, the inhabitants of Mantinea endured dreadful calamities at the hands of Antigonus, and that Phylarchus described in moving terms their lamentations as they were led off into slavery. But Polybius will have none of it; as he sees it, when the Mantineans went over to the Spartan side, they slit the throats of the Achaeans in their midst, in violation, he says, of the customary treatment of enemies under what he calls “the laws common to mankind” (*kata tous koinous tôn anthrôpôn nomous*, 2.58.6; cf. 2.58.7, *ta koina tôn anthrôpôn dikaia*). Thus, the Mantineans thus deserved what they got, and indeed, Polybius affirms, they might even be said to have got off lightly. For being sold into slavery, Polybius explains, “is something that even those who have committed no impious act suffer, in accord with the norms or laws of war [*kata tous tou polemou nomous*]” (2.58.10). In fact, Polybius says, the Mantineans deserved to endure an even greater punishment than this, and far from showing them pity, one should praise the Achaeans for punishing their impiety. Polybius, then, recognizes certain rules that govern conduct among peoples, employing their relatively rare expression, *hoi nomoi tôn anthrôpôn* or “the norms of human beings,” without

² Kurt A. Raaflaub, “War and the City: The Brutality of War and Its Impact on the Community,” in Peter Meineck and David Konstan, eds., *Combat Trauma and the Ancient Greeks* (New York: Palgrave Macmillan, 2014), pp. 15-46; quotation from p. 28.

qualification.³ These rules, according to Polybius, prescribe that one must not slay foreigners who live in one's midst without cause, even though in this case the Achaeans were part of a garrison imposed on Mantinea, which they naturally had to eliminate in the course of their rebellion. However, there is apparently no limit, in Polybius' view, to the punishment that may be meted out to those who transgress this principle, since the slaughter and enslavement of the conquered population are common practice and entirely in line with international norms.

Hans Van Wees, in a chapter on "Genocide in the Ancient World," in *The Oxford Handbook of Genocide Studies*, observes that "Genocide ... was far from the only or normal outcome of hostile inter-group relations in the ancient world."⁴ Nevertheless, Van Wees concludes: "Intentional genocide was perpetrated, and legitimate, according to ancient sources, when a community had committed a serious offense which called for the ultimate punishment" (p. 256), and might also serve as a "conspicuous destruction" designed to "display the power of the perpetrators or to restore or enhance their status" (p. 257).

The conventional norms and practices of war, then, offered little hope for respect for others by virtue of their humanity. Nothing entitled a person to such regard a priori. As the literary theorist Werner Hamacher remarks, in an article on "The Right to Have Rights": "For the

³ Cf. Dionysius of Halicarnassus *Roman Antiquities* 16.4.1-2 (fragment): "One more political incident I shall relate, says Dionysius, deserving of praise on the part of all men, from which it will be clear to the Greeks how great was the hatred of wrongdoing felt in Rome at that time and how implacable the anger against those who transgressed the universal laws of human nature. Gaius Laetorius, with the cognomen Mergus, a man of distinguished birth and not without bravery in warlike deeds, who had been appointed tribune of one of the legions in the Samnite war, attempted for a time to persuade a youth of exceptional beauty among his tentmates to put the charms of his body at his disposal voluntarily; then, when the boy was not to be lured either by gifts or by any other friendly gesture, Laetorius, unable to restrain his passion, attempted to use effort. When the man's disgraceful conduct had become noised throughout the entire camp, the tribunes of the people, holding that it was a crime against the whole state, brought an indictment against him publicly, and the people unanimously condemned him, after fixing death as the penalty; for they were unwilling that persons who were of free condition and were fighting on behalf of the freedom of their fellow citizens should be subjected by those in positions of command to abuses that are irreparable and do violence to the male's natural instincts" (trans. Earnest Cary, *The Roman Antiquities of Dionysius of Halicarnassus*, Vol. VII of the Loeb Classical Library edition, 1950).

⁴ Hans Van Wees, "Genocide in the Ancient World," in D. Bloxham and A.D. Moses, eds., *The Oxford Handbook of Genocide Studies* (Oxford: Oxford University Press, 2010), pp. 239-57; quotation from p. 247.

classical Greek authors of political theory, it was inconceivable that anyone outside of the *polis* could be a human,” and hence, a fortiori, no one outside a “permanently established and internally consistent” society could possibly be the bearer of human rights.⁵ In this same spirit, the great historian of ancient Greece, Peter J. Rhodes, affirms that “the foundation of democracy was not human rights but citizens’ rights.”⁶ Hamacher claims that this conception changed only with the emergence of Christianity: “That public, political matters were matters alien to Christians, meant nothing other than that the human was henceforth not only a political being, but moreover and above all a social being.” This is the basis, Hamacher suggests, for a new conception of rights, which are not “only valid for the citizens of political organizations,” but have their basis in “mere existence.”

Hamacher’s broad overview fails to take account of an important development in classical political thought that tells against his casual dismissal of the possibility of a wider application of rights beyond the confines of the city-state. I am referring to the tendency to view the entire world, or even the universe, as a single *polis* or community, in which all people, and indeed all creatures, have claims to civic status, and hence to a minimum of dignity – dignity being understood here in the Roman sense of *dignitas* or social standing. This view of a universal human society is sometimes thought of as having its roots in Stoic or Cynic cosmopolitanism, that is, the claim to be a “citizen of the world,” but so far as I can judge the early Stoics and Cynics, such as Diogenes, thought that such a worldwide polity consisted of the wise alone, and not of all people by virtue of their humanity. It is only with the emergence of the

⁵ Werner Hamacher “The Right to Have Rights (Four and a Half Remarks),” *The South Atlantic Quarterly* 103: 2/3 (Spring/Summer 2004) 343-56.

⁶ Peter J. Rhodes, “Democracy and Empire,” in Loren J. Samons II, ed., *The Cambridge Companion to the Age of Pericles* (Cambridge: Cambridge University Press, 2007), p. 33.

Roman empire that the idea of a true world polity seems to have taken root.⁷ Thus, in the first century A.D. the poet Valerius Flaccus, who composed an epic poem on the voyage of the Argo, has Venus say to Medea (7.227-29): “You must understand that this world and the gods are common to all living creatures; call that your country [*patria*] – from where the day begins to where it ends [i.e., from east to west].” The Stoic Seneca, writing around the same time, affirms: “We embrace two republics in our soul, one great and truly public, in which gods and men are contained, in which we do not have regard for this corner or that but measure the limits of our polity by the sun, the other to which the condition of our birth has assigned us. This latter will be that of the Athenians or Carthaginians or some other city which belongs not to all human beings but only to some” (*On Leisure* 8.4). We may compare Saint Paul’s Letter to the Ephesians (2:19): “You are, then, no longer strangers and resident aliens, but you are fellow citizens [*sumpolitai*] of the saints and members of God’s household.” Paul introduces a narrower constraint than Seneca’s, since he limits such affinity to Christians. It may be worth noting that there survives an alleged interchange of letters between Paul and Seneca, which, although almost certainly composed later, reflects a sense of the harmony of their thinking.

A century later, the orator Aelius Aristides declares in his *Encomium of Rome* (207): “you [Romans] govern the entire world as though it were a single city.” And just here we see the catch: rights continue to depend on civic status, but under the sway of the Roman empire, all its subjects – and by implication, the whole world – possess rights precisely by virtue of their subjection to Roman authority. Indeed, in the year 212, the emperor Caracalla issued an edict that extended citizenship to all free men in the Roman Empire, gave to all free women in the empire the same rights as Roman women. Human rights and dignity continue to depend on political

⁷ For further discussion, see my chapter, “Cosmopolitan Traditions,” in Ryan Balot, ed., *A Companion to Greek and Roman Political Thought* (Oxford: Blackwell’s, 2009) 473-84.

identity and not on humanity as such. The fate of slaves and enemies remains entirely at the mercy of the master or victor.

In the absence, then, of a notion of inherent human dignity, the only recourse for the defeated and the dispossessed was an appeal to the emotions, and here, the obvious candidates will have been sympathy or pity. Pity, however, was a weak reed, since pity was not generally conceived of in classical antiquity as a response to suffering as such but rather to underserved misfortune. As Aristotle defines it in his treatise on rhetoric, pity is “a kind of pain in the case of an apparent destructive or painful harm in one not deserving to encounter it,” and which, he adds, “one might expect oneself, or one of one’s own, to suffer, and this when it seems near” (*Rhetoric* 2.8, 1385b13-16). The last condition adds a further restriction, since those who do not feel vulnerable to harm, whether because they perceive themselves to be secure or because they have fallen so low that no further injury can befall them, are immune to pity.⁸

If the enemy was deemed to be in the wrong, then the emotion excited was not pity but rather anger. Toward the end of the Second Punic war (201 B.C.), when Scipio Africanus had already crossed into Africa and Carthage had sued for peace, a Roman supply convoy was driven ashore by a storm and impounded by the Carthaginians. According to Polybius (15.1.2), Scipio was angrier at the Carthaginians’ disregard for the oaths they had sworn than he was upset at the material loss, and he dispatched envoys to demand restitution of the ships and their cargo. The Carthaginians dismissed the envoys and then ambushed their ship as it approached the Roman camp. In response to this double breach of faith, Scipio decided no longer to spare even cities

⁸ So too, the *Rhetoric to Alexander*, a treatise ascribed by some scholars to the pre-Aristotelian rhetorician Anaximenes, advises: “we shall be capable of rendering things pitiable whenever we wish if we are aware that all people pity those whom they suppose to be well-disposed toward themselves and whom they believe to be undeserving [*anaxioi*] of misfortune. One must show that those whom one wishes to render pitiable have these qualities, and demonstrate that they have suffered or are suffering or will suffer wrongly [*kakôs*], unless the hearers help them” (34.4-6). For further discussion, see my *Pity Transformed* (London: Duckworth, 2001).

that surrendered voluntarily but rather to enslave them entirely, such was his anger (*orgê*) as a consequence of the Carthaginians' perfidy (15.4.2); their treachery, according to Scipio, stripped them of any claim to pity or pardon (15.17.5-6).

With the decision on the justice of the enemies' cause resting solely in the hands of the victors, the only way to dispose them to pity was a display of abject humility, by means of which one might assuage their wrath by showing that one was so weak and helpless as to be innocent of any intentional offense. As Aristotle observes, we are disposed to be gentle toward those who humble themselves before us and do not contradict us, for by this "they are seen to concede that they are our inferiors, and those who are inferior feel fear, and no one who feels fear offers a slight" (*Rhetoric* 2.3, 1380a23-24), which Aristotle regards as the principal cause of anger. As Aristotle remarks, dogs do not bite people when they sit down.

But if pity was a possible response to humble supplication, it was by no means obligatory. In the heroic world of Homer's *Iliad*, a beaten enemy sometimes begs pity, but in fact it is never granted. To take but a single example, the young warrior Lycaon, fighting on the Trojan side, slips under Achilles' spear, seizes his knees, and begs as a suppliant for respect (*aidôs*) and pity (*Iliad* 21.74-75), reminding Achilles that he ransomed him once before (90-96). Achilles, however, is implacable: "Don't speak to me of ransoms" (99), he orders, and advises Lycaon to have done with lamentation (106): Patroclus, who was a better man than Lycaon, has been slain and Achilles himself is doomed to an early death. Achilles seems here to adduce the common mortality of mankind as a reason why he is immune to pity rather than susceptible to it, but this conforms, contrary perhaps to modern intuitions, to Aristotle's view that those who have lost everything and so have nothing more to fear are not susceptible to pity.

Was there any sentiment to temper the anger of the victors, when they believed, as they generally did, that theirs was the just cause? Where we might think of sympathy or empathy, the Greeks and Romans adduced rather a sense of humanity or humaneness, which in Greek was called *philanthrôpia* or *epieikeia* and in Latin *humanitas*. One illustration will have to suffice in the limited time at our disposal. In the year 413 B.C., the great armada that Athens had sent to conquer Sicily was defeated and most of the army slain; some 7000 soldiers, however, were captured alive. The campaign is narrated by Thucydides, who was a contemporary of the events. In the first century B.C., Diodorus of Sicily retold the story in his *Historical Library* or “Universal History,” introducing a debate in the Syracusan assembly over how to treat the survivors. On one side, a certain Diocles proposed that the Athenian generals be tortured and killed and the rest of the captives sent to the quarries. In reply, a certain Nicolaus, who had lost two sons in the war, mounted the podium (13.19.4-6). Nicolaus tells the assembly that he has good reason to hate the Athenians, but at stake is the more general issue of pity for the unfortunate and the common interest. The Athenians, according to Nicolaus, have paid the due penalty for their injustice in initiating the war. The Syracusans, in turn, ought to respect the power of fortune and not do something inhuman (13.21.4): “Some will say, perhaps, that they have done us wrong, and we are in a position to take vengeance on them” (13.21.5). But punishment has already been inflicted, and the enemy surrendered trusting in the Syracusans’ kindness (*eugnômosunê*). It is wrong, then, to give the lie to the Syracusans’ *philanthrôpia* (13.21.6): the winners should trust less to their military superiority and more to decency (*epieikeia*) of character. Let the Syracusans be known, says Nicolaus, for having conquered both in battle and in *philanthrôpia* that city – he means Athens – that was the first to found an altar to Pity, and dare to show pity to their fiercest enemies (13.22.6-8). In addition, by appearing mild

toward those in misfortune, they will obtain the pity of all in the event of some all too human reversal (13.23.3; cf. 27.18.1). The hearts of gentle or civilized people are, Nicolaus affirms, overcome by pity because they recognize the common affection (*koinê homopatheia*) of nature (13.24.2).

In reply to Nicolaus, Gylippus, the Spartan general who commanded the Syracusan troops, reminds the assembled Syracusans of their losses, and denies that the Athenians deserve any consideration: “For those who originally established the customary practice in these matters granted pity to the unfortunate but vengeance against those who commit a wrong because of their own wickedness” (13.29.3). As history had already revealed, Gylippus won the day.

Nicolaus acknowledges the element of desert, but by insisting that the Athenians have suffered adequately by their defeat, he disables the idea of exacting revenge above and beyond victory. For Nicolaus, kindness and humanity (*epieikeia, philanthrôpia*) toward others, including enemies, are both useful and natural, and even those who have done wrong are deserving of magnanimity. Whether such humaneness is an emotion or rather a trait of character is perhaps unclear. It resides, in either case, in the virtue and wisdom of the victor, rather than in the abstract right or dignity of the vanquished. Whether such an appeal is the more effective of the two I leave it to history to judge.