European Conquest and the Rights of Indigenous Peoples: The Moral Backwardness of International Society

Paul Keal

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Paul Keal's thoughtful book is concerned with the ethical standing of indigenous peoples, the states in which they are embedded and international society. His central thesis is that contemporary states were founded unjustly on the subordination and ill treatment of indigenous peoples, and that in order to reclaim moral legitimacy, states are obliged to make amends. The legitimacy of states, and the society of states of which they are a part, are increasingly being judged by the extent to which they observe human rights norms, and Keal suggests that observance of indigenous rights should be added to this standard. He plausibly concludes that self-determination is the fairest way to address past and present harms.

This proposal is not quite as radical as it might first appear. By taking a long view, Keal demonstrates that our understanding of indigenous peoples and the privileges and obligations of states has always been subject to reformulation. Indeed, many would argue that the post-war decolonization process that defined self-determination as formal statehood for Europe's blue water colonies, and severed the link between *de jure* and *de facto* sovereignty, was an aberration. This process of reformulation is not guaranteed to secure a benign outcome, and Keal accordingly considers some of the impediments that realizing indigenous self-determination and the accommodation of multiple political loyalties will need to overcome, not least the opposition of states.

Keal reviews the normative justifications that in the classic European canon historically endorsed imperialism, colonialism and other forms of conquest that were once viewed as facts of international life but are now crimes. Land was pivotal to the argument. In general, the alien other was represented as wild or primitive, and ultimately not quite human. Although the moral and legal emphasis of the arguments shifted, the outcome was similar; indigenous subsistence strategies were judged against European agricultural techniques and found wanting. Keal clearly establishes that the settlers' view of land as a commodity to be appropriated and exploited was drastically incommensurate with the indigenes' conceptualization of landscape and usufruct as components of identity. This dichotomy remains problematic, because it underpins diverse understandings of what it means to be self-determining.

Crucially, Keal shows that instrumentally, self-determination can be realized through a plurality of statuses. Sometimes, only self-determination in its sovereign form will suffice. For indigenous peoples, a return to the *status quo ante* is impossible, so Keal concludes that self-determination should serve to address present injustice. Land reform, minority protections, special exemptions and the like may challenge the domestic arrangements of states, but do not threaten the sovereign integrity of states or the states system.

Keal restricts his focus to the English-speaking democracies of Canada, Australia and New Zealand. In part, this is simply to keep his story manageable, but it also reflects his concern with the now global reach of the Westphalian states system, and the domination of non-Europeans by Europeans. Pragmatically, it also allows him to consider practice within a group of states sharing a broadly similar type of political culture, and whose indigenous peoples, being for the most part foragers, also share a broadly similar *Weltanschauung*. As he acknowledges in his conclusion, it is the liberal democracies that, so far, have gone furthest in attempting to address the needs of their indigenous peoples. This is ultimately reducible to the conscience of the powerful, and appeal to the virtues of tolerance and respect for diversity, which Keal illustrates through his consideration of the legacies of conquest, and the moral responsibility that lies with the West.

He raises the interesting question of whether the practices of domination by non-Europeans differ significantly from those of Europeans, but does not have space to pursue the answer. This is a shame, because there is an underlying tension running through Keal's text, which a wider consideration of state practice might have resolved. While he conclusively argues that the essentially liberal values of the West have been exported globally as universal values, which resulted in the marginalization and dispossession of those societies with different values, it is nevertheless through appeal to liberalism and the ideal of impartial justice that indigenous peoples stake their claims to self-determination. Keal ultimately accepts this for practical reasons, but by limiting his scope to the Anglo-Commonwealth, he is vulnerable to a charge of Eurocentrism, and it is not evident that the conclusions he draws from these sources can be safely generalized.

Two other issues would have benefited from further consideration in this otherwise excellent study. Firstly, Keal's conceptualization of culture is not fully explicated. He appears to treat indigenous culture as a primordialist remnant of a once pristine social artefact, now contaminated by colonial contact, which veers towards the culture island fallacy. Cultural hybridisation remains under-examined. Second, he generally treats prior occupancy and cultural difference as adequate explanations for indigenous rights. A fuller treatment of the debate is required to refute the orthodoxy that posits rights as inherently a property of individuals, with collective rights as derivative, or a

socially constitutive expression of this. The political institutions of democracies are tailored to meet the welfare needs of all citizens, with no formal distinction made between them. The disadvantaged may have a strong claim based on present need, but special privileges for certain groups warrant rigorous justification.

European Conquest and the Rights of Indigenous Peoples is a valuable contribution to a debate that has persisted since Europeans made first contact with alien civilizations. Keal presents his arguments with great clarity, and convincingly demonstrates that the ethical standing of indigenous peoples is both a matter of justice and the litmus test by which the international legitimacy of states will be judged. He offers some salutary insights to applied ethics. Although paying due attention to a range of moral prescriptions, Keal's own are pragmatic, being grounded in the realities and possibilities of the 21st century.

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