

BUCHBESPRECHUNGEN

Marina Svensson, *Debating Human Rights in China: A Conceptual and Political History*, Lanham, MD: Rowman & Littlefield, 2002, 389 pp.

Jonas Grimheden*

Have human rights ever been an issue of discussion in Chinese history? Judging from the title of Marina Svensson's book the answer is yes. *Debating Human Rights in China: A Conceptual and Political History* deals in a meticulous yet synoptical way with how the discourse on human rights was eagerly absorbed in early 20th century China and how the discussion has developed up until the present.

Professor Svensson is active at the Centre for East and South-East Asian Studies at Lund University, Sweden. Her dissertation, defended in 1996, dealt with the Chinese view on human rights from the late 19th century when imperial China was increasingly influenced by Japanese and Western thinking, up until the establishment of the People's Republic in 1949. *Debating Human Rights in China* takes us through the whole of the 20th century to the present on a discourse exposé. She shows great knowledge on human rights and on preservation of cultural heritage in China.¹

Debating Human Rights in China has been reviewed in several journals: Professor James D. Seymore at Columbia University, New York, commented that this well written publication constitutes an important contribution to rediscovering history, not the least when it comes to the Chinese

debate since 1989.² Researcher Xiaorong Li at the University of Maryland stressed that the well-structured piece clarifies that the debate on human rights in China is far from a new phenomenon.³ Professor Joseph Chan, University of Hong Kong, has analysed Svensson's book too and he found it to be a detailed all-inclusive contribution, not the least on the development of the rights discussion in China.⁴ Professor Merle Goldman at the Fairbank Center for East Asian Research, Harvard University, Cambridge, scrutinized *Debating Human Rights in China* and complemented the author for a thorough and well-written book. Goldman emphasizes the strength of showing how human rights are not something that has been forced onto the Chinese from the West, but the discourse on rights has been willingly absorbed, both on the mainland and on Taiwan over the last century. In particular Goldman appreciates the approach of Svensson that distinguishes from many others, in not trying to look for similarities between for example Confucianism and human rights and instead highlighting how rights thinking provided a foothold to counter much of what Confucianism had come to represent.⁵

The Foreword to *Debating Human Rights in China* is written by renowned Professor Andrew Nathan from Columbia University. Nathan concludes that Svensson's contribution concerns the debate in relativism and Asian values through skilfully presenting the discussion on human rights among the most well-known Chinese thinkers. This treatment of the debate indicates objectivity but also great sympathy for the cause according to Nathan. He points out that studies of this kind assist in reviewing the past for a better understanding of the present. Nathan ends stating that the book does away with stereotypes and bridges cultural differences between China and the West.

In this company of four eminent reviewers and the author of the Foreword, I can't but agree in their praise of a thoughtfully written and interesting monograph. Not the least do I appreciate the introductory theoretical discussions on for example universalism and Orientalism the parallels to the development on Taiwan. Svensson moreover provides refreshing views on origins of con-

* Jonas Grimheden, BA, LLB, LLM, LLD (Lund University, Sweden), Senior Researcher, Raoul Wallenberg Institute of Human Rights, presently post doc at the Faculty of Law, Niigata University, Japan. The author wishes to acknowledge financial support for the present research period from the Thunberg Scholarship of The Swedish Foundation for International Cooperation in Research and Higher Education (STINT). A Swedish version of this review has been published in 22 (2) Nordic Journal of Human Rights, 2004

¹ Svensson has together with Stephen C. Angle of Wesleyan University, CT, USA, translated and edited: *The Chinese Human Rights Reader: Documents and Commentary, 1900-2000*, Armonk, NY, M.E. Sharpe 2001. The two researchers have also established an informative site (The Chinese Human Rights Web, www.chinesehumanrightsreader.org), aimed at providing an "informed discussion" on historical and contemporary human rights in China.

² James D. Seymore, (2003) 50, *The China Journal*, 192-3.

³ Xiaorong Li, (2003) 174, *The China Quarterly*, 531.

⁴ Joseph Chan, (2003) 1 (3), *Political Studies Review*, 444-5.

⁵ Merle Goldman, (2003) 62, *The Journal of Asian Studies*, 944-6.

cepts in the United Nations Universal Declaration on Human Rights and the 'Western view' on human rights prior to World War II.⁶ The book provides many references to parallel perspectives on human rights in the West through out the period concerned. In the West the discussion on human rights had virtually died out when it was imported into China.⁷ Rather than rights being forced onto China, as it is often suggested in the debate on for example Asian values, a genuine interest in China was the cause. Furthermore, Svensson is supporting a section of her argumentation on a Chinese thinker's view that modern Orientalism is spurred by Asian power holders.⁸ She also shows how Asian arguments about rights being Western and used in exaggeration creates a new form of 'Occidentalism' in Asia. Examples are also provided of how the Chinese society was seen in China as overly individualistic in contrast to the commonly claimed Confucian collective society.⁹ Svensson claims insightfully that it were the violations of human rights and the method to prevent such that were particular and relative rather than the rights.¹⁰

Debating Human Rights in China provides a number of interesting views on different topics and the development over time. With due praise and noble company aside, I would still like to raise a couple of issues. Through the chosen focus on the osmosis of the rights discourse into China, Svensson comes to depict rights as a Western invention which is contravening the overall bridge-building ambition of her work. Be it that the terminology and fuel for debate was transplanted, the rights concept is still not solely of Western origin. Goldman in her review argued that one of the advantages was Svensson's unconventional approach not to look for similarities in Confucianism. Svensson holds that to do so would be "... wrong-headed and constitut[ing] a dead end, ...".¹¹ On the following page she admits however that the concept of dignity in Confucianism was fertile soil for the human rights debate.

The apparent risk with this "one-way street" as she refers to the more 'conventional approach' is however essential. The 'conventional' provides in part a tool for improved mutual understanding of other cultures, not the least legal cultures. It

may be that a concept is universal but differs in a number of points, as well as in terminology. The risk is of course what for example Professor Teemu Ruskola describes as a worst case scenario: that universalism is reduced if corresponding features are not found.¹² This is however of less importance. Ruskola is at the same time occupied with finding parallels between cultures. I argue that the method chosen to understand China in this case, affects the result very clearly. To approach something apparently or maybe rather seemingly quite different requires a method that can cope with stereotypes developed in the course of history. For China the stereotypical picture of East and West is central with the collective, morally ruled, criminal law-focused, unequal, and consensus-based China in stark contrast to the individualistic, law-ruled, civil law-focused, equal, and just legal system in the West. To understand contemporary China better, a method must be used that seeks similarities and quests with apparent risks of one-way streets. A method disregarding mutual prejudice between East and West, risks on the contrary to reinforce misunderstandings. The work of Svensson is still admirable in that she actually does away with stereotypical conclusions from the past, but her contribution would be even greater if she acknowledged the many historical parallels and similarities as regards the concept of rights between China and the West as an important part of her methodology as well.

Of far less substantial character a drawback is that the many interesting notes are, as is common in this type of books, hidden as end notes after each chapter. Svensson can hardly be blamed for this, but in particular when the notes are extensive and well-developed as in her book I would have appreciated footnotes. As a lawyer I also cannot help noting the use of "sign" in relation to the great number of Western countries being parties to the International Covenant on Economic, Social and Cultural Rights.¹³ She states that the United States have on the contrary not signed that particular Convention. Svensson is likely intending ratification.¹⁴ President Carter made sure that the US signed the Convention as well as that on civil and political rights (that later was also ratified) in 1977.

⁶ See p. 26, 200-26.

⁷ See p. 73.

⁸ See p. 63.

⁹ See p. 118.

¹⁰ See p. 39.

¹¹ See p. 11.

¹² Teemu Ruskola, *Legal Orientalism*, (2002) 101, Michigan Law Review, 179, 190.

¹³ See p. 273.

¹⁴ She is using the right terminology regarding China in footnote 137, p. 296.

Marina Svensson's highly enjoyable *Debating Human Rights in China: A Conceptual and Political History* is an excellent contribution to both the research on China as well as that on human rights. The introductory chapters centred on universalism should be of great interest for those generally interested in rights as well. The book provides a needed European perspective as a counter balance to the otherwise much US-dominated English language field on law and human rights in China. A European perspective can in particular contribute to the depolarisation of the dichotomy of East and West, just as Svensson already rhetorically asks on page 2: Are the differences between East and West really all that great?