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Review of Human Rights in Global Politics

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Recommended Citation

Chinkin, Christine M. Review of *Human Rights in Global Politics*, by Ken Booth. *American Journal of International Law* 95, no. 2 (2001): 472-477.

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Human Rights in Global Politics. Edited by Tim Dunne and Nicholas Wheeler. Cambridge: Cambridge University Press, 1999. Pp. xi, 328. Index. £42.50, cloth; £15.95, paper.

The fiftieth anniversary of the Universal Declaration of Human Rights in 1998, coming in the decade after the resurgence of Western-style liberal democracies, has generated much writing

² See, e.g., Ibrahim F. I. Shihata, Remarks, 82 ASIL PROC. 41 (1988).

and activity over the current status and future development of international human rights law, practice, and discourse. International lawyers tend to take for granted the canon of rights that, in the wake of the Universal Declaration, have been enshrined within the body of international instruments that have been adopted within regional and global arenas. In the 1990s, these lawyers largely turned their attention away from standard setting and to issues of effectiveness. Considerable energy has been directed toward achieving universal ratification of the major human rights treaties, toward removal of crippling reservations, and toward development of innovative methods of enhancing treaty performance. Thus, a number of recent studies have examined ways of improving the institutional enforcement mechanisms¹ and, more generally, have grappled with issues of compliance with international law.² Meanwhile, human rights activists and their organizations have invested significant resources in a strategy of legality—that is, a belief that claims are strengthened when encapsulated in law. State support has been successfully mobilized to establish new institutional mechanisms (for example, the International Criminal Tribunals for the Former Yugoslavia and Rwanda, and an individual complaints and inquiry procedure³ for the Convention on the Elimination of All Forms of Discrimination Against Women), as well as to forge agreements on such matters as an international criminal court and an African court of human rights. Attention has also been turned to ensuring international accountability for denial and abuse of rights—including by nonstate actors. This same belief in the efficacy of law has motivated campaigns, led primarily by nongovernmental organizations (NGOs), to recognize the applicability of international human rights to groups (notably women, children, gays, and indigenous, migrant, and displaced persons) that have been perceived as excluded from the accepted understandings of the legal instruments—thereby giving real meaning to the concept of universality.

¹ See, e.g., PHILIP ALSTON & JAMES CRAWFORD, *THE FUTURE OF UN HUMAN RIGHTS TREATY MONITORING* (2000).

² See, e.g., Benedict Kingsbury, *The Concept of Compliance as a Function of Competing Conceptions of International Law*, 19 MICH. J. INT'L L. 345 (1998); COMMITMENT AND COMPLIANCE (Dinah Shelton ed., 2000) (reviewed by Douglas M. Johnston, 95 AJIL (forthcoming 2001)).

³ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, GA Res. 54/4 (Oct. 15, 1999) (entered into force Dec. 22, 2000).

The reality of noncompliance remains all too apparent despite the positivist articulation of human rights as international legal norms, the burgeoning of the human rights agenda, and the above attempts to strengthen institutional structures for protecting human rights. There persists a glaring gap between human rights—the mass of international legal instruments indicating a commitment to the international protection of fundamental rights and freedoms—and human wrongs—the daily, massive, and widespread infliction of gross harms upon humans by other humans. This dissonance raises important questions about the historical and philosophical foundations of human rights and about the tension between the asserted universality of rights and their internal morality, coherence, and legitimacy. The supposed neutrality and universality of human rights is rejected by those who point to their historical contingency, contextuality, and role in supporting capitalist values. Preference for other forms of social ordering—ones that uphold religious, community, traditional, or nationalist values, as against the individualism of Western political and moral thought—is asserted by those whose power base depends upon the primacy of the former. In addition to serving as a pretext for nonconformity with human rights standards, such arguments, which are rooted in the diversity of cultures, militate against the internalization of rights that is crucial for their observance.

Insistence upon conformity with human rights standards provides a basis for intrusion—through conditionalities, sanctions, or even military intervention—into what had historically been considered the internal affairs of states. Unfortunately, however, neither legal confrontation nor even exceptions such as the doctrine of margin of appreciation developed by the European Court of Human Rights end up addressing the theoretical breadth and complexity of issues relating to universality and relativism. Indeed, by highlighting points of difference, legal argument may provoke resistance against precisely those dialogues that are needed for reconciliation of disparate views. Theorists from other disciplines—for example, anthropologists, philosophers, political scientists, and those working in culture studies or international relations—have often given greater attention to the dilemmas of human rights legitimacy than have lawyers. The contributors to *Human Rights in Global Politics* address questions of universality and relativism, of empowerment and

abuse, and offer a range of views with respect to the challenges posed by human rights claims in contemporary global politics.

The volume derives from a conference that the book's editors, Tim Dunne and Nicholas Wheeler, organized at the University of Wales, Aberystwyth—a conference that was itself inspired by an earlier essay, "Human Wrongs and International Relations," by Ken Booth, professor of international politics at the same university. The contributors are primarily professors of international relations, politics, or philosophy in U.S. and UK universities. They examine both the regulatory role claimed by the moral imperatives of human rights in the state-centered power system and the vacuum in international relations left by what Richard Falk calls "the systemic refusal on the part of academic specialists and diplomats to acknowledge moral failure with respect to the organization of international political life" (p. 177). The book is divided into two parts. The essays in part I explore the moral dilemmas of human rights. In addition to providing critical assessments of orthodox accounts of human rights that rest upon "grand narratives of reason or nature," this part examines "theoretical possibilities for constructing a form of universal values which is *not* pre-given by either of these narratives" (p. 3). Part II turns from explicit consideration of the big questions to an examination of the most prevalent human wrongs (genocide, the treatment of refugees, and violations of women's human rights) and the diverse actors that shape both the forms of such wrongs and the responses to them (by state and nonstate actors, including global market forces, transnational civil society, the media, and international institutions).

The five essays in part I reject the binary distinction that is so often asserted between universalism and cultural relativism, and that underlies much sterile debate about the legitimacy of human rights. In place of such simplistic polarization, the foundations of human rights are theorized within a matrix that is set out in the useful introduction by Dunne and Wheeler: the universalist stances of liberal natural rights and cosmopolitan pragmatism are distinguished from the cultural relativist stances of traditional communitarianism and communitarian pragmatism. Each of these four positions is epistemologically grounded as either foundational (liberal natural rights and traditional communitarianism) or antifoundational (communitarian pragmatism and cosmopolitan pragmatism). From these

positions the contributors unpack such concepts as universality, cosmopolitanism, sovereignty, and transnational activity, and consider how they might be reconfigured. Although the essays' authors tend to locate themselves primarily within one or another of the four theoretical stances identified by the editors in the introduction, they also recognize the pull of other forces and avoid defining their own positions in absolutist terms.

From his standpoint at the interface between international relations and anthropology, Booth identifies in his essay for this volume three oppressive tyrannies that undermine the practice and theory of human rights: the present tense (presentism); cultural essentialism (culturalism), and scientific objectivity (positivism). He argues that excessive deference to these tyrannies captures human rights in an unchanging, essentialist, and traditionalist discourse that fails to encompass their potential for individual emancipation and societal change. Attention should be directed away from the *asserted* universalism of human rights and toward *actual* universalism of human wrongs, for these universal social facts are the ones that highlight the fallacy of the argument that there is no "universal ethical community" (p. 61). That is, in a bottom-up rather than elite view of world politics, we should concentrate on identification of moral wrongs, rather than on seeking universal human rights, because of the irrefutable evidence of harm that is provided by those who have suffered it. Accordingly, universality should be sought not territorially, but rather in multiple networks of crosscutting ethical communities of, among others, oppressed women, marginalized persons, prisoners of conscience, and those suffering under racial discrimination. The multiple identities and values espoused by all humans ensure connectedness between communities in place of the false compartmentalization imposed by culturalism.

The essay by Jack Donnelly also focuses upon the evolutionary and changing nature of human rights, and upon the added force they have acquired by providing a response to the threats of modernity. For Donnelly, this historical contingency does not decrease the authoritative nature of human rights, which he sees as a defining feature of contemporary social and political reality. Nevertheless, he acknowledges that changing contexts—notably, the weakening of the central role of the state as the protector of human rights—will demand new strategies for conceptualizing and enhancing human dignity.

In contrast to the preceding accounts of human rights, Chris Brown challenges the liberal narrative of universal rights, presenting it as incoherent and confused. He finds dissonance not only between legal standards and performance, but between the liberal concepts of rights and their undoubted rhetorical appeal. He argues that the success of liberal societies in upholding their vision of the "good life" is not attributable to their commitment to individual rights, but rather to their being ethical communities in some other sense. Far from being foundational within liberal societies, rights are in reality consequent on other characteristics of the polity, such as commitment to a constitutional rule of law, demarcation between public and private spheres of activity, and support for a strong civil society. Accordingly, the idea that rights can be decontextualized, lifted from these societies, and applied elsewhere is untenable. Since rights should be understood as a "by-product of a functioning ethical community" (p. 120) rather than as founded in common humanity, attempts at universal standard setting and implementation by the international community must be doomed, at best, to only limited success. Brown rejects both foundational universalism and foundational relativism, and instead favors a form of communitarian pragmatism that nevertheless asserts the moral value of human rights.⁴

Focusing on human rights discourse, Bhikhu Parkh argues for a non-ethnocentric universalism that rejects confrontation and contestation. He considers that universalism and cultural diversity can be reconciled through a form of cross-cultural dialogue⁵ that emphasizes the importance both of diverse societal goals and of the need for broad internal support for the choices made in pursuing those goals. The issue of cross-cultural discourse also figures prominently in the essay by Mary Midgley, who draws special attention to the discontinuity between the critical concerns that scholars voice about the content and meaning of human rights, and the global public appeal of such rights as a tool for fighting abuses. That is, despite the critical concerns of

scholars, this appeal is well apparent in the NGO-driven campaigns mentioned earlier for legal reforms to extend human rights protections to new groups. Midgley further argues that the symbolism and weight of the language of rights contribute to the development of an ethic of responsibility toward any persons—wherever they are located—who are denied their human rights.

This last theme of a global ethic of responsibility (which was also raised by Booth's assertion that since human wrongs are our business wherever they are committed, pressure must be put on governments to respond) is picked up in the more specific settings of the essays in part II. Several essays provide extended discussions of strategies to persuade states to overcome their reluctance to intervene (in whatever form) in the cause of human rights when there are no national strategic interests at stake. Part II also emphasizes—through its focus upon the broad range of relevant actors—the rejection of statist perspectives of realist international relations. Thus, Martin Shaw examines the actual and potential capacity of the media to persuade states to respond to human rights abuses, while both Falk and Mary Kaldor consider the influence of transnational civil society, or globalization from below,⁶ in injecting moral purpose into international relations and in promoting a cosmopolitan democracy. Falk questions whether the repeated moral failure of the international community to intervene in genocidal situations is structural or ideological—that is, due to the weakness of institutions of global governance or, instead, to an unwillingness to move outside narrow perceptions of national state interest. While Falk acknowledges that the two are entwined, this discussion is especially pertinent in light of the United Nations' institutional soul-searching and admission of blame with respect to Srebrenica and Rwanda, coupled with the marked lack of such analysis by many states. As Falk asserts elsewhere, the normative challenge (dramatically highlighted by NATO's bombing of Serbia) is to reconcile the need to prevent those who abuse human rights or who impose cultural standards in the name of rights from hiding behind the shield of sovereignty, while at the same time protecting others against the unauthorized or excessive use of force.⁷

⁴ Brown draws upon the work of philosopher Richard Rorty in rejecting the epistemological foundations of human rights while accepting the importance of "sentimental education" (p. 120)—that is, asserting values in face of wrongs.

⁵ See also, for example, HUMAN RIGHTS IN CROSS-CULTURAL PERSPECTIVES: A QUESTION OF CONSENSUS (Abdullahi An-Naim ed., 1992), in which cross-cultural dialogue is conceived as integral to the process of internalizing rights.

⁶ See also Richard Falk, *The Nuclear Weapons Advisory Opinion and the New Jurisprudence of Global Civil Society*, 7 *TRANSNAT'L L. & CONTEMP. PROBS.* 333 (1997).

⁷ Richard A. Falk, *NATO's Kosovo Intervention: Kosovo, World Order, and the Future of International Law*, 93 *AJIL* 847 (1999).

The Kosovo action (which occurred too late for consideration in this volume) reminds us that the ethic of responsibility does not cease once a decision to intervene has been made, but imposes further moral obligations such as ensuring that action is based on accurate information, determining the appropriate means of response in face of the passions of ethnic politics, and assuming the risk of harm involved in providing effective protection. Gil Loescher picks up on the function of international governmental institutions in exercising moral choices, but recognizes their constraints. Using the United Nations High Commissioner for Refugees as an example, he argues that restrictive mandates and limited resources inhibit effectiveness in resolving the multidimensional human rights situations that international institutions face. Specialist institutions need to build bridges with other bodies in order to increase the range of actors that can provide innovative, realistic, and context-specific solutions.

Some human wrongs remain long unrecognized, however, and have consequently invoked no effective response. In her account of the "silencing of women," Georgina Ashworth—the welcome voice of long-term activism among the academic array, and also the lone feminist voice—exposes the limitations of international institutions, the media, and civil society. The scant analysis in the other essays of the wrongs committed against women—even where such wrongs are especially relevant—itsself serves as an illustration of her claims. For example, although Martin Shaw refers to the fact that many (especially non-Western) global voices are never heard, he does not mention that abuses of human rights committed against women (and specifically because they are women) have almost never captured media attention. In addition to being abuses that are typically committed in private, which renders them invisible, abuses against women are taken to be part of the natural ordering of society and are regularly subordinated to the claims of religion and tradition. In sum, there is no "center of revolt" that can make a "good story" in the male-dominated media. Similarly, in their account of the right to education, Booth and Dunne do not discuss its particular significance for the empowerment of women, who constitute the majority of illiterate people worldwide. Falk's discussion of genocidal politics does not include their gendered manifestations.

Academic blindness to the double standards accepted by many champions of traditional

human rights has been shared by mainstream NGOs. Although women have a long history of organizing for social change, mainstream NGOs—central components of international civil society—have largely ignored gender-specific abuses, as is apparent from Ashworth's account of the early days of CHANGE, the first contemporary NGO committed to the protection of women's human rights. The part played by women in significant social movements (such as the western European peace movements and the 1980s challenges to Communism in Eastern Europe, both described by Kaldor) does not translate into practical or legal support for women's advancement. In answering those who are skeptical about the relevance of gender when considering human rights abuses, Ashworth describes how the gender of the victim matters to perpetrators who target women as they fulfill "their gendered social reproductive role" (p. 273) and who choose forms of sexual abuse intended to intimidate women, to terrorize them, and to destroy their lives as women within their own societies. She describes how the concerted and untiring efforts of women's NGOs have had some effect on international institutions, which have now begun to take account of women's human rights as such. Ashworth sees room for optimism, although she acknowledges that the efforts of women's NGOs continue to be inadequate, especially in face of the feminization of poverty, religious fundamentalism, economic exploitation, and the understanding of the powerlessness that vitiates consent. Had she written her essay only a year or two later, her concluding comments on future directions may well have included the need for constant vigilance: the recent experience at the Beijing +5 Special Session of the UN General Assembly shows how even comparatively strong language about women's rights can be negotiated away.⁸

Unlike many other compilations of conference papers, this book presents itself as an integrated whole. Its coherence is undoubtedly due, in part, to the vision and purpose of Dunne and Wheeler, who organized the conference, edited the essays, and then enhanced the volume with their excellent introduction. It is also due to the final two essays, which link the two parts together. The first of these essays, by Andrew Hurrell, examines five central themes in the debate about the place

⁸ Information on the special session, held from June 5–9, 2000, is available online at <<http://www.un.org/womenwatch/confer/>>.

of human rights in contemporary political and social thought: the contemporary substantive and political expansion of the human rights agenda; the intrusive nature of human rights enforcement through institutional mechanisms and more coercive means, including sanctions and military action; the disintegration of state structures for the protection of rights; limitations on relying upon global civil society for building a moral community that transcends national borders; and politically and culturally based regionalist and particularist challenges. From his thoughtful analysis of each of these themes, which pervade the volume, Hurrell concludes that however one answers the foundational questions posed in part I, those answers will not resolve the political and ethical issues—ones of practice, power, and process—that are at the heart of human rights abuses. Like a number of the other contributors, Hurrell places weight on the consensus that he perceives to be growing around rejection of the great wrongs committed against humans. Regardless of the contested nature of human rights' philosophical foundation, the emergence of such a transnational moral and legal consensus is a significant historical achievement brought about by the human rights movement. This consensus may be fragile and fragmented, but it must not be discounted. Hurrell also argues that international lawyers have a crucial role in this aspect of the human rights enterprise. In particular, by helping to forge a consensus around legal procedures and institutions for the protection of human rights, lawyers promote the emergence and consolidation of an international consensus around the associated moral values and social justice.

In the book's final essay, Booth and Dunne consider the place of a particular human right that is surprisingly often overlooked by academics: the human right to education. This social right is central to the integrity and indivisibility of all human rights because illiteracy undermines enjoyment of citizenship rights and limits individual empowerment. Booth and Dunne also argue that education specifically in human rights should commence at an early age as a means of promoting the growth of an informed civil society that is committed to a culture of rights. They conclude that "both [education and human rights education] must be part of a politics of common humanity appropriate for the first truly global age" (p. 325), especially if that education is understood in

terms of cosmopolitan values that encompass respect for, and sensitivity to, gender, ethnicity, race, and other forms of diversity.

This short review does not convey either the depth and richness of the interlocking theoretical arguments raised throughout the volume or the searching social and ethical questions raised by each separate contribution. Nevertheless, there are unfortunate limitations in the essays' treatment of human rights and related political issues. For example, although many of the essays discuss these issues in the context of economic globalization, the operative notion of human rights remains essentially that of civil and political rights, with much less attention being given to the human rights dimensions of development, poverty, health, or labor relations. The politics of indigeneity, disability, and sexuality (the importance of which is shown by its centrality in confrontations over definitions of crimes against humanity at the 1998 Rome Conference for the international criminal court) are omitted, while gender politics are marginalized rather than integrated. Although human rights have come to the forefront of both international law and international relations, it will be evident that international law plays at best a marginal role in this volume. The evolution of the international human rights legal regime is discussed in a number of the essays as part of the backdrop to the questions addressed by the authors, but the relevant legal issues are not ones that lawyers find pressing. Mentioned only tangentially are such questions as the applicability of UN Charter norms to the doctrine of humanitarian intervention, the legal content and justiciability of the various rights, the relationship between human rights law and issues of international trade and environment, and the legal capability of UN agencies to effectuate change. The book does not attempt to bridge the distance between international lawyers and international relations theorists, or to consider how they might jointly contribute to human rights policymaking. These minor limitations do not, however, either reduce the book's relevance or its interest for human rights lawyers. Through its engagement with contemporary moral and political debates about the place of rights, the book provides a valuable framework for legal and policy analysis, and serves as an important reference point for both.

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Of the Board of Editors