

BOOK REVIEWS

The Legalization of Human Rights: Multi-Disciplinary Perspectives on Human Rights and Human Rights Law by BAŞAK ÇALI AND SALADIN MECKLED-GARCÍA (eds) [Routledge, London, 2006, 208 pp., ISBN 978-0-4153-6123-1, £22.99 (p/bk)]

The moral ideals embodied in human rights have long occupied a distinctive and central place in the global order. The past half-century has witnessed the subjection of these ideals to the imperious influences of legal discourse. Law now plays a dominant role in the study and practice of human rights, to the exclusion of other disciplines. Indeed, when scholars, practitioners or laypersons speak about human rights, they invariably mean human rights law. This parasitic relationship is widely understood as natural or inevitable, and for many, it is pointless to conceive of human rights without reference to their legal content.

Yet, it is not axiomatic that all or even most human rights ought to be enunciated or advanced through law. The potential of extra-legal strategies and vocabularies for forging human emancipation has long been recognized. There are indeed sound and practical reasons, as well as theoretical justifications for resorting to law in advancing human rights. However, law has often been given a privileged position without being explicitly defended in theoretical terms, or, at least its full implications being worked out.

These observations all bring into focus the ‘phenomenon’ which has been described as the ‘legalization of human rights,’ and which forms the subject of the edited book under review. This volume sets out to question narratives about the apparently progressive and unproblematic relationship between law and human rights. It seeks to alert us to the difficulties inherent in giving law a governing role in the development and advancement of the human rights project.

While this book contests law’s hegemonic position in human rights discourse, it does not advocate a rejection of legal process. ‘Legalization’ is therefore presented as a problem of balance, and not of alternatives. Law is viewed as one of the various facets of social life that must be configured to contribute to the achievement of protections, guarantees and modes of behaviour associated with the human rights aim. As such, this book seeks to create a platform for a joint venture between lawyers, philosophers and the social and political sciences in the human rights endeavour.

Although the book’s theme is not altogether unfamiliar, it succeeds in presenting fresh and insightful analysis on the many contradictions and tensions in the relationship between law and human rights. There are many distinct ways in which the phenomenon of legalization is understood and manifested, and this well-written volume brings many experts together to address these various dimensions. The book is divided into four sections, each containing a cluster of similarly themed essays addressing various facets of the book’s overall concern.

Part I is entitled, ‘The limits of Law’. It features essays which examine the disconnect between conceptions of human rights as understood in non-legal spheres, and the various points at which these diverge from standard legal formulations. In Chapter 1, Başak Çali and Saladin Meckled-García explore the extent to which legal conceptions are at odds with a holistic understanding of human rights, which is reflective of lived experience. Other pieces explore the tendency of law to supplant extra-legal approaches and present itself as a totalizing discourse. In Chapter 3 Michael Freeman therefore asks us to ‘put law in its place’, by recognizing that while law is necessary for the protection of human rights, it is not enough. We are warned against the danger of assuming that the language of law is the only, or the very best strategy for promoting rights aims.

Part II takes a less sceptical approach. Here the writers eschew over-simplistic criticism, and examine the ‘virtues’ of law and legal process. Jack Donnelly recounts, in Chapter 4, the many achievements of the law in forging an international legal consensus on human rights norms, and its positive contribution to the implementation and protection of rights in various domestic

constituencies. Responding to the critiques in Part I, the contributors argue that legal formulations dispose of foundational theoretical controversies inherent in moral, political and philosophical approaches to human rights. Furthermore, law presents advocates with potent and authoritative legal norms with which to base claims. While these essays acknowledge the problems of expressing human rights aims as legal claims, they contend that law is central and irreplaceable in the struggle for rights. Thus Richard Wilson argues in Chapter 5, that 'it is not legalization that matters, but how legalization unfolds' (94).

In the third section of the book, contributors give insight into different human rights struggles, and examine the various implications of framing these causes in terms of human rights law. Experiences from transitional governance regimes and the labour and feminist movements are used as illustrative studies. Ratna Kapur argues in relation to the women's movement, that while human rights law often assists in such rights struggles, it is very often a problem in itself. David Chandler uses the story of post-conflict rule-of-law reforms in Bosnia, to illustrate how legal idealism and the prioritization of legal reforms may undermine and discredit political and democratic processes. The message here is that law and legal strategy must be contextualized within broader social, political and economic relations and structures if it is to be effective.

The book's concluding essays in Part IV, focus attention on how issues of 'interpretation and legal authority' in international law remain problematic for human rights. These chapters interrogate contemporary modes of law making (writing) and interpretation (reading) in human rights, and their capacity to suppress many worthwhile human rights concerns. Therefore, in the book's final essay, Upendra Baxi invites us to revisit the notion of authorship in international law, arguing that interpretative authority ought not to be the sole reserve of political elites, but that such authority should belong to wider communities. He therefore exhorts us to understand and engage in reading (interpreting) human rights as a form counter hegemonic resistance.

This book should command the respect and attention of students, scholars and activists alike. It makes a significant contribution to present debates on the role of law and legal strategy in the human rights project. The value of this book lies not only in its lucidity and critical insights, but also in the range of disciplinary perspectives from which it engages the issue of legalization. This rich approach draws on thought from such areas as, political theory, anthropology, sociology, literary theory, international law and the social sciences. As such, it is one of the most comprehensive works engaging in this area of scholarship to date.

CONWAY BLAKE*

After Enron: Improving Corporate Law and Modernizing Securities Regulation in Europe and the US by JOHN ARMOUR AND JOSEPH A McCahery [Hart Publishing, Oxford and Portland Oregon, 2006, 718 pp, \$65.00, ISBN: 1841135313 (p/bk)]

'Just another book about Enron?', one may ask. Hundreds of pages have already been written after the collapse of Enron. Just the mention of the word 'Enron' was enough to catch the attention of the public like a powerful magnet. Pressing questions include, what went wrong, what was the response and what sort of reforms are necessary in order to avoid similar scandals in the future. No matter how huge the existing literature is, John Armour and Joseph McCahery have identified a gap and edited a book, dealing with corporate governance in the aftermath of the series of scandals that shook the ground underneath the feet of the United States primarily and subsequently the European Union.

The main objective of the editors, as highlighted in the title of the book, is to detect and suggest the best ways to improve corporate law and to modernize securities regulation in both the sides of the Atlantic Ocean. The book consists of a collection of essays written by leading corporate law

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