

## BOOK REVIEWS

*Human Rights and Public Finance: Budgets and the Promotion of Economic and Social Rights*, edited by AOIFE NOLAN, RORY O'CONNELL and COLIN HARVEY [Hart Publishing, Oxford, 2013, 257pp, ISBN 978-1-84113-011-8, £55.00 (h/bk)].

In the aftermath of the Global Financial Crisis and associated sovereign debt emergencies, the links between states' financial policies and human rights records have recently become clearer and more politically controversial. Implementation of economic and social rights, especially poverty alleviation programmes, has been compromised in many countries especially in the financially-strained European Community. *Human Rights and Public Finance* is thus a timely book contributing to the scholarly literature on our understanding of how public finance policies and institutions affect human rights.

The book, which is designed for a diverse audience including seasoned scholars, students, policymakers and legal practitioners, aims to improve understanding of state accountability for human rights obligations in the area of public finance and to advocate ways to improve consideration of such rights. The discussion is well integrated and cohesive despite being an edited collection comprising 15 contributors, including the team of editors: Aoife Nolan (Nottingham University), Colin Harvey (Queen's University) and Rory O'Connell (Ulster University). Together, they provide a trenchant critique of the impact of austerity budgets on the design and delivery of human rights, using Article 2(1) of the International Covenant on Economic, Social, and Cultural Rights (ICESCR)—which behooves states to deploy maximum available resources towards the realization of the Covenant rights—as their principal normative compass.

The volume is organized into four parts. The first focuses on foundational issues regarding the interrelationships between human rights and public finance, including fiscal and macroeconomic policies. It includes chapters that explore the implications of the ICESCR for public sector finance, government responses to the recent financial crises in a selection of countries, and how tax policies in particular can engender human rights injustices. The second part considers the challenges that are perceived to be inherent in integrating the analysis of human rights with law in the context of public finance. It comprises chapters that trace the history of human rights discourses in public finance and how the executive and legislative branches of government have absorbed those discourses in financial decision-making (eg setting national budgets) and the extent to which the trend has leveraged positive change for human rights. In Part III the focus shifts from a more conceptual tone to case studies of specific stakeholders, with chapters on how budget decision-making has affected children and women in particular. The final part includes further case studies, on the right to adequate housing and the impact of fiscal constraints on welfare benefits and access to public services.

Overall, this book is successful in providing a fairly theoretically robust and empirically validated account of the interrelationships between social and economic rights and public financing, and the impacts in recent years of the austerity programmes in many countries. Readers will benefit from the interdisciplinary perspectives from political science, regulatory theory and human rights that allow public finance, especially taxation and budget decisions, to be understood as having significant ramifications for social well-being and equality.

There are some gaps and limitations in *Human Rights and Public Finance* which, although not undermining its general scholarly value, perhaps diminish its utility for certain types of readers.

First, the book focuses on economic and social rights—clearly important considerations—but overlooks other types of human rights such as those in the environmental realm. The subject-specific chapters focus on children, women and housing. Environmental law has also suffered from recent austerity programmes, to the detriment of a variety of groups and individuals such as indigenous peoples and other local communities whose livelihoods are closely tied to the land.

Second, the book will appeal most to readers interested in developments in the European Community, especially in the United Kingdom and Ireland. This reflects the background and

interests of most of the contributors. Analysis of other jurisdictions that would offer similarly rich insights into the links between human rights and public finance, such as Canada and Australia, is rather sparse. Ignacio Saiz's chapter on tax injustices is the most useful for offering a richer comparative perspective beyond Europe (eg his consideration of Guatemala).

Third, the understanding of 'public finance' taken by the book's contributors emphasizes the budgetary process. This is too narrow to comprehensively capture the subject matter. For example, government policies on pension entitlements, as well as the practices of sovereign wealth funds, are significant omissions from this book.

Fourth, some readers may take issue with the fairly homogenous, anti-neoliberal sentiments expressed through much of the book. While such sentiments are understandable given the impact of recent financial crises and government funding cuts on society's most vulnerable, the book would have been more intellectually vibrant had it offered more diverse and contrasting perspectives.

All in all, *Human Rights and Public Finance* will appeal most to academics and students interested in a sophisticated critique of the implications for economic and social rights from the recent drive by mainstream political parties advocating fiscal austerity. It is a competently written and carefully researched volume that should provide readers with an excellent framework for understanding these issues, especially within the European Community. Unlike much human rights literature that focuses on the role of courts, this book widens the inquiry to the work of governmental bodies with the principal responsibility to implement internationally-recognized social and economic rights: the popularly elected and democratically-accountable branches of the state. The book is very timely and provides an important contribution to the intensifying debates about the impact of financial belt-tightening on many cherished human rights.

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*Corporate Governance in the Shadow of the State* by MARC MOORE [Hart Publishing, Oxford, 2013, 336pp, ISBN 978-1-84946-008-8, £55.00, (h/bk)]

The nature and extent of the state's involvement in economic activity has always been a sensitive and contentious issue and this book can be read as part of this academic exchange, as it seeks to assess the extent and legitimacy of state involvement in the making of UK and US 'corporate governance law' as defined therein (see below). The academic debate between those opposing state involvement in corporate governance ('contractarians') and those recognizing the law in this area should serve at least some public policy concerns is long-standing. In this regard, the author observes that determining the 'private/facilitative' or 'public' nature of corporate governance law 'affects our *normative* perspective'. So the value of this book lies, first, in that for various reasons most of this debate concerns US legal doctrine, since the UK case is rarely, if at all, systematically discussed in the literature, and second, in the revisionist stance it often adopts given the long-standing dominance of contractarianism.

As noted in the introductory chapter, these influences can be traced both in doctrine and in academic perceptions of it as a facilitative tool for private enterprise rather than as a coercive system of regulations designed to serve social purposes. The author pronounces the normative importance of this 'characterization' of corporate governance law claiming it determines how the 'essential form or qualities' of regulation in this area *should* develop by affecting the desired objectives of rule-making. Thus, if rule-making in this area *is* a private ordering function, any societal goals *ought to be* just incidental consequences of it, as opposed to conscious choices of the regulatory process. However, it is difficult to avoid noting here that whether rule-making remains outside the control of the state or not is *itself* the outcome of political choice and not a natural position imposed on the state, and therefore it is difficult to sustain

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