



Review

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GLOBALIZATION, INTERNATIONAL LAW, AND HUMAN RIGHTS (2012). By Jeffrey F. Addicott, Md. Jahid Hossain Bhuiyan, and Tareq M.R. Chowdhury (eds.). Oxford University Press, YMCA Library Building, 1 Jail Singh Road, New Delhi 110001, India. Pp. xxi + 234. Price Rs: 695/-

HUMAN RIGHTS today represent the values essential and fundamental to the existence of individuals, communities, and states. For that very reason, human rights are numerous, and their domain of existence often ambiguous and easy to deflate. In practicality, the articulation and enjoyment of human rights is largely determined by the working of global/local institutions and rules. More so, with the global community inevitably in face with predicaments like the financial crisis, the commission of crimes against humanity, the unabated acts of terrorism, and global warming, the status of human rights is never certain. It thus becomes imperative to ascertain the standing of human rights in terms of strength, meaning and mandate in the context of power, violence and profiteering in the local and global spaces.

This book titled *Globalization, International Law, and Human Rights*, is an edited volume comprising of 8 chapters in all, reflecting the complexities implicit in the relation between human rights, international law, and globalization. As some of the chapters would reveal, the challenges to human rights are not simply restricted to the position of the mighty state, or the economic dominance of corporations. Occasionally, even the language and articulation of human rights is in need of a coherent existence. This naturally brings to light the question as to what is superior; the mandate of human rights, or the mandate of international law to sustain globalization, economic growth, and institutional expansion.

Specific/emerging rights

Setting the pace and highlighting the manner of recognition and interpretation of emerging/existing rights are chapters three, five, six and seven.

The role of the *right to education* is reflected in chapter five on “Globalization and its Effects on the Emerging Jurisprudence on the Right to Education in South Africa and Nigeria”. Avinash Govindjee and Elijah Adewale Taiwo make a significant contribution while referring to the right to education as an empowerment right; a right which is necessary for the exercise and enjoyment of other rights, for attaining economic prosperity, development, and intellectual-cultural empowerment. Reference has been made to the conflicting approaches to education; education as a right, and education as a trade service. The former emphasising upon the role and services of the state, the latter approach is influenced by the neo-liberal model encompassing

and encouraging competition, free flow of ideas, information and human capital. On the two approaches, for the benefit of the readers, the authors highlight the elusive status of education in South Africa and Nigeria. The neo-liberal model in the two states has generated both positive and negative reactions. On the one hand it has facilitated academic migration; on the other the accepted public-private partnerships have affected the right to education of the vulnerable children.

Chapter six on the “Emergence of the Human Right to Water in the Era of Globalization and Its Implications for International Investment Law” reflects the emergence of *right to water* as a universal right; which is offering opportunities for the mobilization of private investment to ensure affordability and quality. The growing relevance of private investment in the concerned area is reflected in the multiple global arrangements (OECD Guidelines). The author, Owen McIntyre, seeks to draw attention to the operation of international investment law, designed specifically to extend protection to the private sector investors operating in foreign jurisdictions. McIntyre in this regard emphasises upon how the rules and institutions under the said field of international law must balance the requirement of human rights, with that of the interests of the private investors.

Chapter seven on the “Interface between the Third Generation Human Rights and Good Governance in a Globalized World” highlights the obstacles faced in the articulation and implementation of the third generation rights. As compared to the first generation and the second generation human rights, the third generation rights (right to clean environment, peace, development) are highly complex and wide in scope. More so, the third generation of human rights are not clearly defined in terms of who is the holder or the duty bearer of the said rights. To illustrate, reference has been made to the right to development, which has several components and rests on multitude of factual and legal factors which are not under the control of the governments alone. By highlighting the relevance of the third generation of human rights, M. Abdul Hannan draws a close connection between the protection/ provision of the said rights and the larger interest of the community and the state.

The “public” and “private” function of the *right to religion* in Europe has been critically reflected in chapter three on “Freedom of Religion in a Globalized World: The European Experience”. As expressly contained in article 9 of the European Convention on Human Rights, the right to religion has been subjected to interpretations having direct bearing on the plural and democratic character of Europe. Edel Hughes impresses upon the expansive reach of article 9, which has not only catered to the religious interests of the less mainstream religious organizations, but at the same time burdened the state in balancing values/interests existing within a democratic/ plural society, with those associated with religion and “belief”.

Capitalist/ economic expansion

Highlighting the concerns that are “economic” in operation and “disruptive” in implication are chapters one and eight. Chapter one on “Corporate Human Rights Obligations under Economic, Social and Cultural Rights” is centric to the expanding social-economic-political power of corporations. The chapter highlights that although the excessive violations of human rights by corporations has led to the adoption of rules for the imposition of obligations and ensuring accountability (UN Global Compact), corporations continue to pose threat to significant rights (health, water, work). Therefore, the global community must exercise caution and reflect precision while articulating the human rights obligations of corporations, in order to ensure the protection of rights, and the redressal of violations.

The clash between the “Capitalist Economic Ideology” and the “Human Rights based commitment to Social Justice” is well exhibited in chapter eight on “The Place of Capitalism in Pursuit of Human Rights in Globalized Relationships of States”. The clash which historically and conceptually reflects in the two separate covenants adopted for the realization of civil-political rights (ICCPR) and the social-economic-cultural rights (ICESCR). The authors, Moshen al Attar and Ciaron Murnane cite several instances to examine as to how the former instrument is promoted and protected extensively in comparison to the latter. Further, the hostility to the rights contained in the ICESCR is accelerated under the neo-liberal model which zealously shifts public services to the private sector. Referring to the case of South Africa, the authors highlight that the capitalist discourse as headed by leading international financial institutions is prejudicial to the human rights project as a whole.

Global threats/challenges to human rights

Chapters two and four highlight two challenges to human rights protection and enjoyment. The global war on terrorism has had and continues to have implications on the human rights to security and life. Chapter four on “Globalization, Terrorism, and Human Rights: The Mouse that Roared” reposes the question as to whether human rights are central to the determination of state policy aiming to fight terrorism. Emphasis has been placed on the legislative attempts (US, UK, India, Australia) made in order to deal with terrorism post *September 11*. Edwin Tanner contributes immensely by factually describing how the global war on terror has subjected human rights claims to the discretion and policy of the State. The additional point of relevance made is that globalization has accelerated and empowered the workings of the both the forces; terrorism and counter-terrorism. Under these circumstances, the need is to deviate from a strategy of zero tolerance to terrorism, to a strategy that places human rights/ protection of populations at

the centre of foreign/state policy.

The environmental consequences of globalization are explored critically in chapter two titled “Globalization, Climate Change, and Indigenous Peoples in Arctic: An Interface between Free Trade and the Right to Culture”. Specifically referring to the Arctic region, the recognized human rights of the indigenous community are visibly at threat owing to large scale globalization and climate change. Although, the rapid melting of sea ice has facilitated several commercial activities (shipping, navigation, tourism, transportation), the damage on the Arctic environment/ecosystem is irreparable (shown in the Arctic Climate Impact Assessment). Kamrul Hossain highlights that the right to culture and right to subsistence of the indigenous populations needs to be protected, preserved, and promoted while formulating regulations on trade and development for the Arctic region.

On a general note, the book reflects upon the deep impact globalization has had on human rights. Dealing with a variety of issues and developments (corporations and human rights, free trade and the right to culture, right to religion and pluralism, right to security and terrorism, right to education/water and private investment, human rights and capitalism), the book could have been organized under the above highlighted broad themes; specific/emerging Rights; capitalist/economic expansion and the global threats/challenges to human rights. Overall, the book is a good reading on the life and practicality of human rights, as opposed to their conceptual and celebrated existence.

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