

BOOK REVIEW

Human Rights in the World Community: Issues and Action

Richard Pierre Claude and Burns H. Weston, Editors
Philadelphia: University of Pennsylvania Press, June 1989

Reviewed by Barbara A. Frey*

It is evidence of the growth of international human rights as an academic discipline that a number of textbooks and casebooks are competing for attention in the higher education community. One of the worthwhile newcomers to that competition is *Human Rights in the World Community: Issues and Action*.¹ While the textbook itself is new, its editors and contributors are well-known human rights experts who command the attention and respect of the reader as they set forth the history, jurisprudence, and current status of the discipline in this comprehensive undertaking. *Human Rights in the World Community: Issues and Action* serves both as an introduction and a strong substantive survey of international human rights; it offers the reader a glimpse of the enormous breadth of the issues while pausing to explore at least some topics in significant depth.

The editors roughly divide the textbook into two parts: issues and action. Under the issues heading, the editors group essays dealing with the theoretical underpinnings of human rights and offer a legal and political analysis of the entire spectrum of human rights. The section devoted to action includes descriptions of the international, regional, and national systems for protecting the human rights defined by international law. The book also gives some, if little, attention to the role of nongovernmental organizations in promoting human rights.

The book is designed for use by undergraduate and graduate level students, and it meets its purpose well. Each of the book's

* Barbara Frey is the Executive Director of the Minnesota Lawyers International Human Rights Committee and an adjunct professor in international human rights law at the University of Minnesota Law School.

1. *Human Rights in the World Community: Issue and Action* (Richard Pierre Claude & Burn H. Weston, eds. 1989).

six chapters begins with an introduction by the editors which gives a framework for the issues addressed in the chapter and fills in the gaps between the essays which follow. The heart of each chapter is a group of three or four essays written by noted human rights scholars on more specific issues. Each essay is followed by a series of questions which push the students to think further about the issues raised, to challenge the author's assumptions, or to offer an opposing point of view. The chapters' structure, composed of introduction, position piece, and critique, will serve well to educate and stimulate the aspiring human rights student.

In their selection of topics for the study, Claude and Weston sacrifice some depth for the sake of broad coverage of both issues and implementation. Any one chapter of this book could be developed into an entire treatise of its own but, because of the finite needs of students and their courses, several complex subjects, such as the nature of certain civil and political rights, and the United Nations system, are dealt with in one summary essay. In their attempt to be democratic in coverage, the editors give equal weight to more speculative, far-reaching human rights issues such as the right to a clean environment and the right to peace. While these issues are not the day-to-day stuff of the human rights practitioner's practice, they do lend an interesting diversity to the theoretical study of the subject matter.

The issues and authors selected by the editors are heavily weighted towards a Western and particularly United States view of the subject matter. Foreign relations discussions inevitably pertain to United States foreign relations and even the material about the East Bloc is written from a Western perspective. Although the book will be used primarily as a textbook for American students, the editors could have broadened the book's international appeal and credibility by including more Second and Third World writers and topics.

The major flaw in the textbook is that several of its essays, though written within the past decade, are already outdated. The most glaring examples of this were in the various essays addressing human rights in Eastern Europe and the Soviet Union.² It is a race against time, of course, for editors and authors to keep pace with the daily political changes in that region. Easier to remedy, however, would have been the lack of editorial recognition of re-

2. See David Lane, "Human Rights Unders State Socialism," in Claude & Weston, *supra* note 1, at 123; A.H. Robertson; "The Helsinki Agreement and Human Rights," in Claude & Weston, *supra* note 1, at 220; and Richard N. Dean, "Nongovernmental Organizations: The Foundation of Western Support for the Human Rights Movement in the Soviet Union" in Claude & Weston, *supra* note 1, at 299.

cent developments in international human rights implementation, such as the use of special rapporteurs by the United Nations Commission on Human Rights to address several crucial issues. The appointments of a United Nations Rapporteur on Summary and Arbitrary Executions and a United Nations Rapporteur on Torture, for instance, serve as responses to the biting criticisms in the Kuper essay concerning genocide³ and the Lippman essay on torture which state the United Nations is unresponsive to these serious concerns.⁴

Also somewhat out of date is the essay by Mary Gosiger on South African divestment,⁵ which mentions neither the 1986 United States sanctions legislation nor the fact that Rev. Leon Sullivan has withdrawn his support of the Sullivan Principles, the code of conduct he had developed for United States businesses operating in South Africa. Given these changes in the factual underpinning for Gosiger's essay, the reader is left questioning why the editors did not select a more recent writing on the same or another subject matter.

Constant change is the norm in the human rights field, which is closely tied to political wind shifts. This fact causes the human rights teacher to acknowledge that the need for photocopied supplements is never-ending, and the textbook editor to wonder if a book can ever be truly completed.

Despite its struggle to keep current, *Human Rights in the World Community* displays a wealth of good voices on many issues. One of the most compelling essays in the book was a provocative piece on the "right" to genocide, by Leo Kuper.⁶ The essay argues that "the sovereign territorial state claims, as an integral part of its sovereignty, the right to commit genocide . . . and that the United Nations, for all practical purposes, defends this right."⁷ In support of his argument, Kuper traces the history of United Nations' inaction in the face of several recent genocidal claims, including those of the Aché Indians of Paraguay, the Hutu in Burundi, and mass killings in Uganda, Cambodia, and Bangladesh. The logic of Kuper's attack on the United Nations, that inaction or

3. Leo Kuper, *The Sovereign Territorial State: The Right to Genocide* (1981) in Claude & Weston, *supra* note 1, at 56.

4. Matthew Lippman, *The Protection of Universal Human Rights: The Problem of Torture* (1979) in Claude & Weston, *supra* note 1, at 65.

5. Mary C. Gosiger, *Strategies for Divestment from United States Companies and Financial Institutions Doing Business with or in South Africa* (1986) in Claude & Weston, *supra* note 1, at 312.

6. Leo Kuper, *The Sovereign Territorial State: The Right to Genocide* (1979) in Claude & Weston, *supra* note 1, at 56.

7. *Id.*

delay equals complicity, is certain to stimulate classroom debate regarding the bounds of sovereignty and international humanitarian intervention.

Another valuable contribution to the book is the essay by Tom Farer on the United Nation's human rights machinery.⁸ Farer manages to take what could be a dry, historical, and structural subject and make it interesting through a combination of political color commentary and an acerbic writing style. In describing, for example, the standard categorization of United Nation's human rights activities, Farer comments, "[l]ike all scholarly efforts to order the confused scum of life, these phases correspond only roughly to actual events within the United Nations system."⁹ Taking a jab at the United Nation's timidity in human rights protection, Farer notes, "despite its fierce commitment to inoffensiveness, the [United Nation's Commission on Human Rights] could not always manage to match the [Economic and Social Council's] reticence."¹⁰ Farer does not make light of the subject matter, but keeps the reader's interest in a crucial and, too frequently, deadly dull topic.

Richard Claude's fine contribution on the landmark Second Circuit ruling of *Filartiga v. Peña-Irala*¹¹ is another highlight of the book.¹² The essay, rather than taking the stiff legal analytical approach, offers a very personal look at the facts behind the case. By learning about the life and suffering of the Filartiga family, the reader is exposed not only to the legal significance of the *Filartiga* ruling but to the compassion that is an integral part of international human rights practice.

Although, in general, the introductory essays to each chapter are comprehensive and objective, there was one spot where I disagreed with the editors in their narrative capacity. The introduction to the chapter on National Approaches to Implementation cites the Philippines Constitution as a model of implementation of international human rights principles into national law. While it is true that the Philippine Constitution surpasses almost any other in its articulated devotion to the protection of individual rights, in practice the country has fallen far short of both its domestic and its international obligations. Attempts to enforce the constitu-

8. Tom J. Farer, *The United Nations and Human Rights—More Than a Whimper* (1987) in Claude & Weston, *supra* note 1, at 194.

9. *Id.* at 200.

10. *Id.* at 201.

11. 630 F.2d 876 (2d Cir. 1980)

12. Richard P. Claude, *The Case of Joelito Filartiga in the Court* (1983) in Claude & Weston, *supra* note 1, at 272.

tional provisions cited by the editors concerning agrarian reform, labor policy, health care, and other economic and social rights have become an invitation for "salvaging"¹³ by vigilante groups.

The constitutionally created Commission on Human Rights, instead of monitoring governmental abuses in the Philippines, has become a bureaucracy of intentional inefficacy that, by comparison, makes the United Nations human rights machinery look like an aggressive watchdog. There is no harm in citing the Philippines as a country which aspires to protect human rights, especially in the aftermath of the Marcos government's excesses. Human rights educators, however, must be the first to teach their students the difficult lesson that a change in law does not represent a change in practice. In their eagerness to include an example of national legislative implementation of human rights principles, Claude and Weston have avoided that lesson.

The most disappointing chapter in the book, however, is the final one, dedicated to the contributions of nongovernmental organizations (NGOs), individuals, and corporations to the implementation of human rights. The selection of essays was particularly unsatisfying because of the wealth of materials that have been written about individual and group efforts to promote and protect human rights. Given short shrift is the critical role of frontline human rights organizations such as the Mothers of the Disappeared of El Salvador,¹⁴ the Free Legal Assistance Group of the Philippines, and Charter 77 of Czechoslovakia. These groups provide reliable documentation of ongoing human rights abuses, offer legal, medical and welfare aid to the victims and their families, and advocate for domestic changes, usually at great personal cost.

The single essay in the book devoted to NGOs addresses the narrow topic of actions of Western NGOs to improve the Soviet human rights situation.¹⁵ Besides underestimating the extent of change to the human rights scene in the U.S.S.R., Dean devotes great energy to criticizing "NGOs," a generic body of organizations designated by the author to include soup to nuts special interest groups, for their shortsighted, simplistic, and decentralized approach to human rights in the U.S.S.R. One would think that the

13. "Salvaging" is the Philippine expression for arbitrary and summary executions.

14. The full name of the group is the Committee of Mothers and Relatives of Political Prisoners, Disappeared and Assassinated of El Salvador, Monsignor "Oscar Arnulfo Romero." There are similar groups throughout all of Latin America, South Africa and several Asian countries.

15. Richard N. Dean, "Nongovernmental Organizations: The Foundation of Western Support for the Human Rights Movement in the Soviet Union" (1989) in Claude & Weston, *supra* note 1, at 299.

substantive work of NGOs, without which the entire scheme of international human rights protection would collapse, deserves more comprehensive treatment.

Despite its shortcomings, *Human Rights in the World Community* is a valuable overview for both the human rights student and practitioners who want to balance their activism with a substantive and historical basis in law. The reader of this textbook will obtain a solid grounding in both the law and practice of international human rights. In addition to facing the core issues, the reader will be encouraged to consider the entire spectrum of rights to which individuals lay claim, including the right to be free from ethnocide, genocide, and homnicide, and all rights in between.