Review of Giving Meaning to Economic, Social, and Cultural Rights, edited by Isfahan Merali & Valerie Oosterveld

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impugning the rather different moral uniqueness of the post-war historical moment). After all, it probably took an exercise in empathy on the part of the initially enfranchised – among other things – to create the political and moral space for autonomous and universal self-help. To paraphrase Ignatieff, “are we not brothers?”, while admittedly insufficeint, may have been the necessary precursor of “are we not all rights-bearers?”


The tragedy of September 11, 2001, highlights the nature and importance of human rights once again as the world grapples with the humanitarian crisis that inevitably accompanies war. *Giving Meaning to Economic, Social and Cultural Rights*, a set of essays aimed at reconceptualizing and implementing international human rights, is therefore needed and timely. The book, edited by Isfahan Merali, legal counsel of the Ontario Human Rights Commission, and Valerie Oosterveld, a legal officer with the Canadian Department of Foreign Affairs and International Trade, includes contributions that focus on economic, social and cultural rights as part of a comprehensive set of interdependent and indivisible rights; it is designed to direct international attention to all aspects of human rights law. The volume offers both a useful theoretical study of human rights law and provides helpful case studies illustrating the law’s application to specific issue-areas in several countries.

The book is divided into three parts. The first lays the groundwork for ensuing discussions of economic, social and cultural rights as indivisible from all human rights. Discussing the single textual genesis of human rights, the first section begins with the Universal Declaration of Human Rights (UDHR), then traces its subsequent division into two different treaties: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Focusing on the contextual application of these two treaties, contributors debunk the idea that this textual division was intended to translate into the practice of affording the ICCPR more weight than the ICESCR. Indeed, this is the central contention of the volume; authors repeatedly emphasize an all-inclusive vision of human rights that reflects this notion of “indivisibility.”

In the first chapter, Craig Scott, a professor at Osgoode Hall Law School, links the UDHR’s codification of rights to its practical realization. Arguing that the UDHR provides an overarching ideal, Scott advocates a more fluid approach to human rights implementation, one that traverses the categories offered by the six core conventions that have grown out of the early Covenants. In this way, he posits that the various UN treaty bodies can work in conjunction with one another to monitor human rights compliance more effectively and thereby accord with the foundational intent of the UDHR.
In Chapter Two, Chisanga Puta-Chekwe, an advocate of the High Court of Zambia, and Nora Flood, an LL.B. candidate at the University of Toronto, contend that focus on civil and political rights contradicts an original interdependent conception of human rights and is merely a product of socialist-capitalist tensions that emerged from the Cold War. Capitalists, for example, conceive of the rights defined by the ICESCR and ICCPR as fundamentally contradictory; focus on economic, social and cultural rights requires wealth distribution that conflicts with the individual liberty that civil and political rights mandate. Observing that this misrepresentation born of Cold War ideologies finds renewed purchase in the conflict between developed and developing nations, the authors discuss ways of increasing respect for economic, social and cultural rights.

Next, Diane Otto, a senior lecturer in law at the University of Melbourne, uses the notion of indivisibility to advocate on behalf of women’s economic and social rights. She argues that feminists can play a leading role in articulating an indivisible approach by responding to the myth of “neutral” human rights. She calls these rights “masculinist,” rather than neutral, in light of persisting inequalities between men and women. For example, although “neutral” human rights dictate that men and women should receive pay equity on the job, they do not take into account the fact that women cannot work as many hours as men and are often obliged to fulfill other responsibilities in the home for which they do not receive compensation. Through highlighting such “masculinist” applications of human rights as a pervasive phenomenon, feminists can argue that all human rights need to be reevaluated as an indivisible set of basic human rights.

Essays in the second section of the book pay attention to the practical problems of advancing and implementing this indivisibility conception. In Chapter Four, Craig Forcese, a visiting professor of law at the University of Ottawa, discusses the obligations of multi-national corporations to promote human rights locally. Using Canada as an example, he examines the role that developed nations should play in pursuing global human rights standards when engaging in business operations in developing nations. He wonders if responsible corporate investment can play a role in curbing a repressive government when it abuses human rights as a matter of policy.

In the following chapter, Kerry Rittich, a professor of law and women’s studies at the University of Toronto, critiques the joinder of human rights with global market reform and development as it impacts women’s rights. Arguing that global economic integration has replaced the nation-state with the multinational corporation as the principle international actor, she considers whether feminists should change the methods through which they seek human rights redress for women. Should they join in advancing global market hegemony as a means of framing a new language for women’s rights activism? In response, Rittich suggests that it is time for feminists to rethink women’s empowerment in a way that will best incorporate global changes.

Rebecca J. Cook, a professor of law and medicine at the University of Toronto, continues the discussion of women’s rights in her essay focusing on reproductive rights. She contends that preventable maternal mortality is a
symptom of a larger social injustice against women that societies must address. One way of doing so is to reinterpret the universalist discourse of human rights in the languages of local religious or cultural values.

In Chapter Seven, Martha Shaffer, a professor of law at the University of Toronto, examines Canadian law of children’s rights. She closely evaluates specific Canadian measures to eradicate child poverty, concluding that Canada, through statutory enactments, has taken some of its obligations to eliminate child poverty seriously. However, like other developed nations ostensibly committed to human rights, Canada fails to fully address economic and poverty issues where its statutory provisions are only marginally effective.

The final section of the book moves from a study of the practical problems involved in applying the indivisibility standard within individual countries to a focus on giving effect to that standard within international legal institutions. Barbara von Tigerstrom, the project coordinator for the Health Law Institute at the University of Alberta, proposes extended roles for non-judicial institutions, such as an ombudsman — an agent who monitors human rights compliance and recommends redress for violations — as one means of complaint resolution in international institutions. She suggests multiple advantages for partnerships between ombudsmen and human rights institutions like the UN and regional human rights bodies, giving examples of the efficacy and limits of a heightened ombudsman role as demonstrated in several countries.

In the next essay, Leilani Farha, a lawyer and human rights consultant, examines Palestinian initiatives to use international legal mechanisms to help bring international attention and pressure to human rights issues. She details a study of a collaborative effort among Palestinian NGOs that heightened awareness and increased monitoring activities of human rights issues among Palestinians, Israelis and international human rights bodies.

Finally, S. James Anaya, a professor of law at the University of Arizona, discusses the Maya Petition to the Inter-American Commission on Human Rights, including excerpts of the petition itself. The Maya People seek to enjoin the Belize government from granting concessions to logging and oil companies, contending that such activities have and will be destructive to their way of life. This represents the first time that an indigenous people has sought relief for human rights violations against a national government before an international human rights body. By tracking this litigation, Anaya describes perhaps the most telling characteristic of international human rights implementation — its ever-present state of flux. Like the Mayans, the global community still awaits verdict on the practical assurance of an indivisible set of human rights, which must include the economic, social and cultural rights originally referenced in the UDHR.

*Giving Meaning to Economic, Social and Cultural Rights* is a well-structured set of essays that provides much insight into the current state of human rights implementation. More critical than laudatory, the book devotes little attention to the positive advances in the human rights arena. Its focus is also necessarily limited to few practical examples. However, the book may
well be an indispensable resource for both the new and seasoned human rights activist interested in discovering more about the intricacies of human rights law and implementation.


As legal remedies become increasingly important in the international struggle for human rights, it is useful to re-examine the history of the first effort to codify the fundamental rights of humankind. Mary Ann Glendon’s A World Made New, which describes the creation of the Universal Declaration of Human Rights, is a timely and well-written response to this need. Although the book, subtitled “Eleanor Roosevelt and the Universal Declaration of Human Rights,” purports to center on Roosevelt, its coverage is much broader, describing in equal detail the involvement of several other delegates to the UN Human Rights Commission. The stories of these influential men, including China’s Peng-chun Chang, Lebanon’s Charles Malik, Britain’s John Humphrey, and France’s Rene Cassin, provide a comprehensive account of the ideological dynamics that shaped the Declaration.

Glendon, a professor of law at Harvard, describes the struggles and compromises of those who created Declaration during the post-World War II period, when relationships among nations were redefined along lines of political ideologies and economic development. A World Made New is a tale of personalities overcoming divergent views to write a document capturing a profoundly influential view of human rights. Throughout her presentation of the Declaration’s creation, Glendon engages in discussions of the varied influences on the process, including of the role of lesser-developed nations and of advocates of women and children’s rights. The U.S. State Department’s evolving opinions about an international human rights instrument, which eventually lead Roosevelt to step down from the Commission, are also explored, as is the impact of the Soviet Union’s decision to change delegates several times. Glendon includes these many individuals and groups in her account of the Declaration drafting process to reinforce her thesis that it is, in fact, a universal document.

The book is organized chronologically, with anecdotes and additional explanatory commentary added where necessary. After a brief discussion on the formation of the UN and the Human Rights provisions in its Charter in Chapter One, Chapters Two through Six detail the creation of the Declaration and its adoption by the Human Rights Commission. Glendon describes Roosevelt’s travels to the first UN General Assembly meeting in London, where she was asked to lead the planning for the Commission. Under her guidance, the Commission members decided that their first job would be to draft a bill of rights. Chapter Three turns to the first session of the Commission, where the conflicts that arose foreshadowed future difficulties