

Jesús Ballesteros, Encarnación Fernández Ruiz-Gálvez, Pedro Talavera (eds.), *Globalization and Human Rights: Challenges and Answers from a European Perspective (Ius Gentium: Comparative Perspectives of Law and Justice, Vol. 13, Leiden: Springer, 2012)*

The book contains three parts on rather distinct themes which are only loosely connected. Part I “Human Rights: Soft Threats” examines threats to human rights, especially in the context of the global recession. The emphasis is on economic, social and cultural rights and the threats posed not by States but by non-State actors and the invisible processes of “globalisation”. Part II “Human Rights: Hard Threats” explores human rights tragedies emerging from the failure of states – from violence and associated poverty. Here the absence of a strong State is a key contributor to human rights violations and the greatest tragedy is the avoidable nature of the failure. Part III: “European Union as a Referent for Peace and development” examines the historic role of the European Union in the maintenance of human rights in Europe and how human dignity has been a core value since its inception.

The first chapter, “Globalisation: From Chrematistic Rest to Humanist Wakefulness” provides a theoretical framework for “new paradigms” post-2008 crash. Drawing attention to the value failures that precipitated the crash, it looks beyond for new models of social organisation. These include: a return to the productive economy, over speculation; the “golden rule” of personal relations based on mutual respect for others’ dignity; respect for the natural environment and recognition of the dependence of both the market and human life itself upon it; and a recognition that the crash was the direct result of the fetishisation of money-value over all other values. Citing Susan Strange (“casino capitalism”, pp. 6 & 19) and Druckner (p. 18), Jesús Ballesteros reminds us: “The stock market was no longer in the service of produce, it stopped supporting companies that create employment and sought only the negotiability of everything according to its immediate profitability, universalising risk” (p. 10). This is not perhaps the most novel research (see, e.g., John McMurtry, *The Cancer Stage of Capitalism*[\[1\]](#) now being prepared for a second post-crisis edition) but it bears repeating nonetheless and it sets the scene for some of the later chapters, in particular, the discussion of disability rights in Chapter Three. No doubt constrained by space, Ballesteros’ emphasis is much more on the globalisation side than the human rights side, but more concrete linkages to the International Covenant on Economic, Social and Cultural Rights of 1966, to which all European Union states are parties, would have been welcome.[\[2\]](#)

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Francesco Biondo appeals to Rawls' Law of Peoples in Chapter 2: "Basic Structure and Tax Havens" to argue for international distributive justice and rejects claims that Rawls' theory applies only or predominantly within an idealised nation-state. Biondo then applies the theory to argue for greater controls over international financial transactions to enhance states' abilities to redistribute resources equitably and reduce corruption. This is followed by "Human Rights and the Inclusive Society" by Jorge Cardona Llorens. Llorens' chapter is a commendable review of the trifold barriers to realisation of human rights for people with different capacities, namely, cultural barriers (negative attitudes and stereotypes); a State approach of "protection" rather than "rights" (what this reviewer has criticised elsewhere as the "welfare model"[\[3\]](#)); and physical barriers in a human World designed around assumptions about what a body should be able to do (p. 54). Llorens then examines the Convention on the Rights of Persons with Disabilities in the context of the development of the United Nations human rights instruments and argues that it is not about awarding persons with different capacities new or special rights but about ensuring the fulfilment of all human rights - civil, political, economic, social and cultural - for people with different capacities (p. 71).

In the second part on Hard Threats, Chapter Four: "Afghanistan: Why has Violence Replaced Political Power?" and Chapter Five: "Somalia: From the Errors of Colonialism to the Horrors of War" explore the role of foreign influences in fuelling or heightening conflicts in these States. Encarnación Fernández Ruiz-Gálvez reviews the external interferences in Afghanistan from Soviet times until the present as the most significant factor in explaining the current predominance of violence over politics. Ana-Paz Garibo-Peyró explores the origins of current instability in Somalia, from the colonial period through the misuse of aid in the 1990s to the widely criticised experiment with humanitarian intervention under the authority of the Security Council and Chapter Seven of the United Nations Charter. The UN peacekeeping mission led, owing to divergences between the priorities and objectives of the United Nations and the United States (the main contributor to the force), to the peacekeepers being viewed inside Somalia as little more than another party to the conflict. It is not clear that Garibo-Peyró achieves her stated objective to "reflect upon the demand for a change of paradigm concerning fundamental questions of International Law, such as the need to transform national security into human security, the step from humanitarian intervention to the responsibility to protect, and the urgent need to examine the bases in greater detail in order to reconstruct failed States." Any one of these sub-topics would have been more than enough to tackle in a short chapter but as it is they are only loosely and tangentially addressed.

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Part Two is concluded by Isabel Trujillo's examination of the legal, practical and conceptual links between international humanitarian law and international human rights law, "Human Rights and Changes to the International Legal System. Philosophical Reflections on the (Difficult) Coexistence of International Humanitarian Law and International Human Rights Law." Trujillo reflects on three complex themes: when and where each set of norms apply; to whom they are addressed; and whom they protect. Trujillo quickly demonstrates that each of these themes is much more complex and controversial than a standard international law account would suggest. She concludes with a recognition of the paradox inherent in international humanitarian law which is the direct consequence of the fragmentation of international law: if the purpose of international humanitarian law is to protect persons during times of war, the best way to do that is would be to prevent war altogether. As it is international humanitarian law is international law's attempt to protect people from international law.

The final part returns to the place of the European Union in this discourse. It begins with Chapter Seven: "Europe's Path to Public Reason" (Francesco Viola), a return to Rawls. Viola's emphasis is on the European constitution and the shift from an economic and trade union into a full political, social and cultural union, i.e. a union of people, not of abstract entities (p. 161). This is neatly followed by Ernesto J Vidal Gil's essay, "The Social State Based on the Rule of Law" which in turn argues that the social state is a core value of the European Union and in fact has been since its inception. With this in mind, Vidal Gil returns to some of the themes from Chapter One discussing contemporary threats to the social state in Europe, particularly post 2008.

The collection concludes with Chapter Nine: "Peace as a Priority" in which Pedro Talavera defends the European Union as the World's greatest "peace project" - a moniker which the Norwegian Nobel Committee would presumably endorse. Talavera contrasts the Europe Union's approach to securing peace through guarantees of human dignity and legal framework (even bureaucracy) with the neoconservative ideology of peace through force: a

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cross between mutually assured destruction and an “us and them” approach to diplomacy (with “them” identified vaguely as “Islamic terror”). While Talavera has a valid point to make and one with which I am largely in sympathy, there does seem to be a degree of cherry picking of the finer points of the European integration project contrasted with the more extreme fringes of American neoconservative positions. Talavera concludes by reflecting on the need to put universal human rights back into focus as the foundation of peace, a message that, in light of the challenges identified in chapters one and eight, the European Union has sore need to heed.

Understandably for a Spanish-led (and funded) project, the contributors are predominantly Spanish alongside two Italian scholars. This makes it an additional challenge to ensure that the book together lives up to its title of providing a truly “European perspective” and a wider net (or perhaps a different title) would have been welcome. Nevertheless, the essays, although only loosely connected to one another, provide a variety of viewpoints from which to consider the European Union’s role in respecting human rights – within its borders (especially economic, social and cultural rights at a time of draconian budget measures) and beyond (rights to live in peace and to physical security). The final section perhaps portrays a rather idealised view of Europe; certainly, the European Union has brought great political stability and peace but post-2008, at least within the Eurozone, it is also being blamed, rightly or wrongly, for austerity measures which themselves violate human rights. The editors of the collection have opted for breadth over depth so that each short chapter feels like only a snapshot of much deeper research, but this approach allows each scholar to introduce his or her current work and inspires the reader to seek out other publications by the same authors in which they have more space to develop their themes.

[1] John McMurtry, *The Cancer Stage of Capitalism*, Pluto Press, 1998.

[2] See, e.g., Giorgio Baruchello and Rachael Lorna Johnstone, “Rights and Value: Construing the International

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Covenant on Economic, Social and Cultural Rights as Civil Commons” 5(1) *Studies in Social Justice*, special edition “Life-Value, The Commons, and Social Justice” 91-125 [2011]. Open Access: <http://ojs.uwindsor.ca/ojs/leddy/index.php/SSJ/article/view/3115>

[3] Rachael Lorna Johnstone & Aðalheiður Ámundadóttir, “Defending Economic, Social and Cultural Rights in Iceland’s Financial Crisis” 3 *Yearbook of Polar Law* 455 [2011].

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