

BOOK REVIEW

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***International Human Rights in Context: Law, Politics, Morals* by Henry J Steiner, Philip Alston, and Ryan Goodman (Oxford University Press, 3rd ed, 2008) 1492 pp**

The perception among many Australian lawyers and legal academics is that international human rights norms do not play an important role in day-to-day legal practice. This contributes to the view that anything more than a rudimentary understanding of international human rights is not only an inessential but indeed an indulgent part of legal education. Over the past few years this perception has been challenged with the enactment of a charter of rights in both Victoria² and the Australian Capital Territory,³ with the national consultation on a Commonwealth charter of rights,⁴ and with the various effects of the Rudd Government's policy of 'greater engagement with the United Nations'⁵ and its 'renewed commitment'⁶ to work within the United Nations framework.

These domestic shifts, along with a host of global developments in international law heralded by the post-9/11 world order, made clear the need for a comprehensive and up-to-date human rights textbook. Steiner and Alston, along with their new colleague Professor Goodman, have delivered just that in the third edition of their authoritative textbook *International Human Rights in Context: Law, Politics, Morals*.

The book is most suitable for upper-level undergraduate and graduate courses in human rights law. Although in parts heavy with legal jargon (*albeit* necessarily), its interdisciplinary approach to human rights also makes it accessible to the inquiring graduate student of politics, international relations, or applied philosophy. These students will appreciate the attention given to the placing of ideas in their cultural and

¹ BA (Hons) LLB (UWA).

² *Charter of Human Rights and Responsibilities Act 2006* (Vic).

³ *Human Rights Act 2004* (ACT).

⁴ National Human Rights Consultation Committee, Commonwealth, *National Human Rights Consultation Report* (2009) <<http://www.humanrightsconsultation.gov.au>> at 20 October 2009.

⁵ S Smith, 'Australia Marks United Nations Day' (Speech marking United Nations Day, 24 October 2008) <http://www.aisaid.gov.au/media/release.cfm?BC=Speech&ID=8174_7455_4412_33_6779> at 20 October 2009.

⁶ *Ibid.*

political contexts, and the presenting of divergent perspectives on key issues (for example chapter 4B on the normative foundations of economic and social rights, or chapter 7A on the universalist-relativist debate). Its unrivalled breadth also makes it a valuable reference companion for scholars, practitioners, and policy makers working in the field.

Although essentially a law textbook, the conceptual framework of the book, as its title suggests, is designed to cover legal, political and ethical perspectives on major topics in international human rights: civil and political rights; social and economic rights; the interplay of the laws of war with human rights; globalisation; self-determination; women's rights; the rights of the child; cultural relativism; organisational and procedural aspects of important intergovernmental institutions for human rights. Structurally, the book is divided under six broad headings:

- The background of international human rights since 1945;
- Normative foundations of human rights;
- The dilemmas of universalism;
- International human rights organisations;
- States as protectors and enforcers of human rights; and
- Current topics.

These subjects are explored through extensive use of primary and secondary materials including treaty provisions, court judgments, newspaper excerpts, scholarly journal articles, and non-governmental organisation reports. The authors' commentary acts only as a guide through these materials rather than as a judgment of it. The reader is to make up his or her own mind about each topic, and is helpfully prompted by questions at the end of each section. This is an important character of the book to note. Its lack of quickly digestible summaries or pre-packaged statements of principle make it unsuitable for the student who simply wants a book to copy from during law exams. The table of contents, for example, itself spans 15 pages. For a law textbook this is a refreshing approach, and makes the book congenial to readers who are genuinely interested in engaging critically with the subject matter.

Since the first and second editions were published in 1996 and 2000, many new themes have emerged in the field which have been successfully incorporated into this third edition. There are too many to cover in a short review. Let's look at one example of the book's major themes: the changing notions of autonomy and sovereignty. This theme had been present in previous editions, but has been appropriately bolstered in light of recent developments. The notion of a 'responsibility to protect' at international law, for example, which did not feature at all in the first edition, has now been given quite deliberate attention.⁷ In the remarkably short period of time since it was embraced at the 2005 World Summit, the idea of a 'responsibility to protect' has gained enormous traction in the lexicon of international law.

The need for a new legal doctrine outlining the international community's responsibility to intervene in situations of the most gross systemic human rights violations has been championed by many different groups globally—international and regional,

⁷ H J Steiner, P Alston and R Goodman, *International Human Rights in Context: Law, Politics, Morals* (Oxford University Press, 3rd ed, 2008) 835-43.

governmental and non-governmental—as a necessary *albeit* belated evolution in the law that governs the use of armed force. The emerging ‘responsibility to protect’ principle has equally gained its fair share of naysayers—most notably Russia and the People’s Republic of China—who see it as a dangerous move away from the long established super-norm of state sovereignty, and a potential veil behind which future aggression by western imperialist nations might be clad. The authors have chosen material and commentary which gives a clear outline of current legal status of the principle, and which reflects the robust divergence of political opinions that exist about the ‘responsibility to protect’.

Other important new or significantly revised themes include: terrorism, national security and human rights (covering torture, detention, fair trial, and justifications for emergency based derogations, with a case study on Guantánamo Bay); new and proposed reforms to UN human rights institutions (including the new Human Rights Council); human rights law in relation to humanitarian laws of war; non-state actors and human rights; and human rights, development and climate change.

Australia can be proud to claim one of the authors (Alston) as one of its own. Both Alston and Steiner stand as titans in the field, and their younger co-author Goodman is quickly rising to that status. As with any well established and respected text, it is hard to find cause (and courage) to criticise it. However, no book claiming to cover such a mammoth topic is perfect, and this one does have its weaknesses.

Its main weakness comes with its fantastic breadth and ‘big picture’ approach. The book’s focus, being squarely on the *international* human rights system, does not allow for any significant or complete exploration of how international law interacts with the domestic law of any particular jurisdiction. As the book’s preface states, ‘human rights are violated within individual states, not in outer space or on the high seas’. One can therefore see that despite the authors’ best efforts to cover regional and domestic law in chapters 11 and 12, if the book is going to be truly useful to any serious practitioner or student it must be supplemented with a reliable local reader that allows for a deeper exploration of domestic particularities. In the Australian context such a reader would allow for important detail to be filled in on topics such as Australia’s common law; the effect of Australia’s regional human rights arrangements; Australia’s human rights record both historically and contemporarily; its national Human Rights Commission and associated legislation; and the relevance or otherwise of international human rights law to constitutional and charter litigation.⁸ As much as some human rights devotees would deny it, human rights practice in Australia requires an understanding that goes beyond just *Baban*,⁹ *Toonen*¹⁰ and *Teoh*,¹¹ and the prominent internationalism of Michael Kirby (all covered in this book).¹²

⁸ N O’Neill, S Rice and R Douglas, *Retreat from Injustice: Human Rights Law in Australia* (Federation press, 2nd ed, 2004) is one such publication, although it is now somewhat out of date. Course teachers would do well to put together their own compilation of materials for this purpose.

⁹ *Baban v Australia* (Communication No 1014/2001 of the United Nations Human Rights Committee (CCPR)) UN Doc CCPR/C/78/D/1014/2001.

¹⁰ *Toonen v Australia* (Communication No 488/1992 of the United Nations CCPR Committee) UN Doc CCPR/C/50/D/488/1992.

¹¹ *Minister of State for Immigration and Ethnic Affairs v Ah Hin Teoh* (1995) 183 CLR 273.

¹² Steiner, Alston and Goodman, above n 7, 900-9; 910-13; 1113-19; 1111-13.

Another criticism which comes with the sheer breadth of sources included in the volume—from important UN General-Assembly resolutions, to analytic pieces like Bentham’s utilitarian critique on torture¹³—is that such breadth necessarily makes for some harsh editing. The problem being that while the volume as a whole wins on inclusivity, each individual source loses on completeness, thus making it sometimes necessary for the reader to find the same material elsewhere in order to fully understand it. The addition of an online supplement to this edition was innovative, and has allowed the reader to go to a central reference point for major human right documents (including the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Geneva Conventions and additional protocols; and many more).

However, there are two problems. Firstly, even the documents in the online supplement are edited and so cannot be completely relied upon. Secondly, although the online supplement partially mitigates the problem of quickly outdated materials, the content of the book itself is still hostage to the living nature of the subject matter. New cases, new ratifications, new treaties, and new violations will mean that even this third edition will only have a limited shelf life. No doubt over the coming decades Professor Goodman will inherit the unenviable responsibility of keeping the content of this volume pertinent and up-to-date with this rapidly developing and dynamic field of international law.

Overall, the book is a thoroughly well crafted collection of materials with relevant and thought provoking commentary.

¹³ Ibid 228.