

9-1-2000

Book note: The Future of International Human Rights: Commemorating the 50th Anniversary of the Universal Declarations of Human Rights, Burns H. Weston and Stephen P. Marks, Editors, Transnational Press 1999

Andrew Cohen

Follow this and additional works at: <https://chicagounbound.uchicago.edu/cjil>



Part of the [Law Commons](#)

Recommended Citation

Cohen, Andrew (2000) "Book note: The Future of International Human Rights: Commemorating the 50th Anniversary of the Universal Declarations of Human Rights, Burns H. Weston and Stephen P. Marks, Editors, Transnational Press 1999," *Chicago Journal of International Law*. Vol. 1: No. 2, Article 26. Available at: <https://chicagounbound.uchicago.edu/cjil/vol1/iss2/26>

This Article is brought to you for free and open access by Chicago Unbound. It has been accepted for inclusion in Chicago Journal of International Law by an authorized editor of Chicago Unbound. For more information, please contact unbound@law.uchicago.edu.

The Future of International Human Rights: Commemorating the 50th Anniversary of the Universal Declarations of Human Rights

Burns H. Weston and Stephen P. Marks, Editors
Transnational Press 1999

Burns H. Weston and Stephen P. Marks' volume of essays commemorates the fiftieth anniversary of the Universal Declaration of Human Rights ("UDHR"), which the United Nations General Assembly proclaimed at the end of 1948. The book is something of a hodgepodge, containing detailed discussions of the UDHR and its normative impact, regional and gender-based discussions of human rights, and theoretical articles examining competing definitions of human rights. Such diverse content makes it difficult to generalize about the discussions it contains, but a few common themes emerge.

Many of the essays make an effort to describe the normative impact of the UDHR. The feeling among the authors is fairly uniform in at least one respect. The UDHR has had little immediate, easily traceable impact on the human rights enjoyed by the citizens of the nations that ratified the UDHR. To some of the authors, this aspect of the UDHR, along with the attendant failure of the United States and other major powers to ratify and implement several major human rights accords, has rendered the UDHR moribund. Indeed, as Richard A. Falk has suggested in his article *A Half Century of Rights: Geopolitics and Values*, "[W]hy did oppressive governments agree to such an elaborate framework for human rights unless their leaders were convinced that the UDHR was nothing more than a paper tiger?"

Other authors note that the UDHR's lack of immediate normative impact does not necessarily reflect a failure. To apply normative analysis to the UDHR is to misread its place in history. Many of the authors point out that, at the time it was proclaimed, the UDHR represented an unprecedented international acknowledgment that human rights existed, and helped inject the language of human rights into international discourse. Dinah Shelton acknowledges the labeling function served by the UDHR in her essay *The Promise of Regional Human Rights Systems*.

A second major topic is the proper modern interpretation of the Western human rights norms contained in the UDHR. This discussion is conventionally described by asking how the putatively universal norms described by the UDHR survive under modern scrutiny which holds cultural integrity in much higher regard than human rights theories of the 1940s-1950s. The answer offered by many of the commentators is that the UDHR's norms are facially western and colonialist in their orientation.

For example, one of the authors' common complaints with the UDHR is that its recognition of human rights as existing within, and even administered by, a framework of nation-states undermines the proper universal character of human rights. Historically, human rights advocates have viewed states with suspicion, watching as states have used their UN-acknowledged sovereignty to shield themselves from criticism. Currently, however, the modern global economy is reversing this former truism. Kamal Hossain in *Globalization and Human Rights: Clash of Universal Aspirations and Special Interests* argues that states are now viewed as too weak to assure human rights protections, even where providing human rights is their goal. Hossain also argues that "stateless" capitalism and deeper trade by-pass state control and require international "public goods" that go beyond the province of the nation-state.

Finally, many of the most successful essays attempt a fusion between the old statist, Western-style human rights language contained in the UDHR and new methods of discourse that attempt to recognize the universal character of human rights. The most complete and elegant of these attempts is Martha Nussbaum's "Capabilities, Human Rights, and the Universal Declaration." Nussbaum recognizes the UDHR as a rhetorical device explicating a fuzzy conception of human rights, and views this as an opportunity to use its terms to implement its terms according to the "capabilities" approach propounded by Nussbaum and economist Amartya Sen. This approach views rights as capabilities to do or be valuable things which enable people to develop their potential. Nussbaum and others have established the theoretical framework of the capabilities approach elsewhere, and the real appeal of this piece is its synthetic function. Nussbaum explains how each major article of the UDHR can be plausibly interpreted via a capabilities framework. Nussbaum also makes a major point that human rights are often unnecessarily broken into civil and political rights on the one hand and economic, social and cultural rights on the other.

What *The Future of International Human Rights* lacks in focus, it more than makes up for in breadth and quality. The authors included uniformly possess world-class experience in the field. Aside from their pedigrees, they also show a great ability to construct essays that are, for the most part, mercifully jargon-free and well-written.

Reviewed by
Andrew Cohen
University of Chicago
Class of 2001