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Review

Human Rights & Gender Violence: Translating International Law into Local Justice

Sally Engle Merry. Chicago: The University of Chicago Press, 2006.
281 pp.

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This book explains how international human rights laws are created by consensus through representatives of local and national governments and then become translated into content acceptable to local communities. In an introductory chapter the author presents the overall arguments of the entire work. She also gives examples that support the arguments and lays out the pattern of human rights legislation by using the specific example of gender violence. Emphasizing language, she explains how it is understood in diverse ways. The rest of the book is concerned with more specific examples. Chapter two deals with creating human rights law (36–71). Chapter three is concerned with gender violence and the Convention on the Elimination of All Forms of Discrimination against Women (71–102). In the fourth chapter the concern is the relation of global law to local justice. This theme is continued in chapter five where the author argues that human rights law must be translated into local content and filtered into the culture of the people. Chapter six also deals with the localization of human rights by integrating the concepts

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into the consciousness of local peoples. In the final chapter the author demonstrates that that there are differing degrees of locality.

The overall argument of the book is that international human rights law is the result of consensus building by delegates of various governments and groups representing a diverse range of local cultural traditions through discussions. Those laws must be channeled to the local level and given content consistent with traditional cultures. It is not the case that cultures are human rights violators since cultures have mechanisms for change and adaptation. It is tradition that is the impediment to local enforcement of human rights legislation (3–4). International standards can be given local content and remain consistent with universal standards if the process is implemented correctly.

Two subsidiary arguments are also of major importance: That culture is a process not a static structure and that cultural forms, ideas and values can flow from one culture to another or from international organizations to local communities (19–20).

The author next uses examples of conferences to discuss how delegates debate the language of the law in order to reach consensus. Delegates consider how wording would be viewed in their own cultures. Small differences in wording become the subject of major conflicts (38–40). At a New York conference, Merry observed the delegates of many countries trying to produce a document that could be accepted by every participating nation. She explains how difficult it was to gain agreement on a paragraph dealing with ending discrimination against women. The most informative section is on “contentious issues” (44–48). The author explains that it is not merely different cultures that make for the contention. It is the foremost political issues of the country being represented. Poorer countries want to discuss poverty, for example.

The weakness of human rights laws is next discussed (71–102). These laws exist as a system of treaties. Since there is no enforcement mechanism (71) in international law, the UN has to depend on domestic enforcement; treaties have the force of law in treaty countries (89). The special rapporteur produces reports on compliance (65). It is also necessary for the individual countries to report compliance (78). There are bodies to monitor the process (81–82), but there are no sanctions. Evasion is easy (87–89). The goal of the entire process is to change the culture to reflect these modern universal values (92–93).

The author largely concentrates the next chapter on how the CEDAW attempts to apply general principles to specific situations (103). This requires changing culture.

Concentrating on situations of legal reform in India (104–9) and the use of traditional apologies (bulubulu) in Fiji (113–27), the author discusses how these offer challenges for universal rights advocates. Bulubulu puts cultural pressure on rape victims to forgive the rapists. Merry spends much time discussing bulubulu because it is an essential example of this process of changing culture, especially when the government is reluctant to do so.

The first way law can be translated for local culture is through images, symbols and stories (136). The second way is adapting the program to local conditions (136). Finally, the target population is also redefined so that the new ideas are broadened to include not just offenders and victims but all people who have a stake in changing conditions (137). In a less empirical discussion on social service and violence control training, Merry discusses the development, use and success of such training in different cultures and situations (151–58). Most human rights workers are transnational NGO representatives and they tend to believe that local and national populations do not understand human rights (176–77). She concludes that the translation of human rights into local cultures is superficial and tends to become window dressing. But eventually parts of the program become appropriated into the local social environment (178).

The author claims to have shown that despite the conflict between transnational activists and local leaders, human rights concepts are being appropriated by local cultures (179). One very good example the author uses is battered women in Hawaii (181–84). It promotes her case because Hawaii is part of the U.S. which is well developed along the lines of global values and international human rights enforcement. Yet even in Hawaii, despite the efforts of shelter workers, it was difficult to get abused women to take action and insist on their rights. To do so would be to declare the abuser to be a criminal, and family traditions are still strong. There are subjective contradictions within the individual as to what values to express (184–85). This, again, is a postmodernist view emphasizing the language of values. Using other examples from China, Hong Kong and indigenous cultures, the author goes on to explain the role of translators. These are layers of people who communicate the universal values of human rights into the local situation (210–11).

The final chapter is titled “Conclusions” (219–31) because it does not conclude the work but instead it states the results of the author’s research and the consequences of her arguments. She repeats her claim that human rights systems involve formulating general laws based on universal values then translating them into local cultural situations. She reviews the conundrums involved in this process (223–24). Further, she denies that

there can be any cultural imperialism in this process; these rights must be adopted not imposed (225). Finally, she makes the case that there is a strong link between women's human rights and global capital that transcends countries and localities.

Her research is quite appropriate in that she chooses examples from a wide range of cultural traditions like India, China, the U.S. and Muslim countries. However this article takes a postmodernist approach to human rights legislation and enforcement. There is a heavy emphasis on the language of human rights law and culture. Other approaches concentrate more on the substance. One weakness is the author's attempts to deconstruct culture by deconstructing the language of culture (10–11). This approach can be self-defeating. For example, in chapters four and five, the author gives quite useful information and makes the case for her arguments very well. Language is very important in framing laws. She then takes a defeatist attitude when she discusses the substance. She questions the sincerity of local officials in implementing laws because of cultural conditions and the colonial experience (81–82, 91, 176). Still she claims that when law is successfully translated into local conditions, it enters the attitudes of people (178). But that translation for her is primarily through language. Since postmodernism is primarily deconstructionist contradicts her own approach when trying to construct the substance of law.

Another approach would have given different explanations. Marxists would argue that local officials are concerned with promoting the interests of the ruling class rather than reacting from a cultural perspective. They would give more weight to substance, the economic situation, than to language. One good example of the difference between these two approaches emerges near the end of the work where the author claims that there are degrees of locality. As with the case of Hawaii and Hong Kong, affluent, educated women are still within local environments while some indigenous women are in more universal cultures depending on many factors (213). She concludes that there are two important factors in this process. First, "vulnerable individuals' willingness to accept the rights framework depends on the way institutions respond to their claims" (215). Second, "human rights movements do not require the adoption of human rights consciousness by individuals at the grass roots level" (*ibid.*), which is a strange claim. A Marxist analysis would be much better able to deal with this by placing them in a social class context by analysis of the levels of consciousness of the various classes. Yet this

book is a useful analysis of the global to local process of human rights law for the elimination of gender violence.