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Review

Making Human Rights a Reality

Emilie Hafner-Burton. Princeton, NJ and Oxford: Princeton University Press, 2013. 296pp.

Debra L. DeLaet^{*}

Emilie Hafner-Burton's *Making Human Rights a Reality* offers an accessible and informed analysis of the significant gap between the normative universalism of international human rights law and its limited effects in practice. The book's primary purpose is to offer a pragmatic, strategic alternative to global legalism for promoting the progressive realization of fundamental human rights. In Hafner-Burton's view, the cause of human rights promotion would be better-served by relying on states with strong human rights records (both in terms of respecting rights at home and commitment to promoting them abroad) to use foreign policy as a tool for changing the incentive structures in other countries in ways that enhance human rights protection in these countries. Her goal is to change the "calculus of abuse" (4) in contexts where real and meaningful change is possible.

In developing this argument, Hafner-Burton identifies a paradox at the heart of the movement to promote human rights via international law. On the one hand, the development of a solid and ever-expanding body of international human rights law represents the triumph of a universalistic conception of human rights. In theory, human rights belong to all persons, everywhere. In this view, every time a state joins a treaty regime and every new treaty that is created to explicitly cover a new set of rights represents progress towards this universal view of rights. On the other hand, according to

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Hafner-Burton, the insistence on normative universalism sets the international human rights regime up for failure.

States with poor human rights records and that do not have clear intent to uphold their treaty-based commitments often stymie international efforts to take meaningful steps towards human rights enforcement. When they join human rights treaty regimes, such states are put on the same level as states with relatively strong human rights records and play the role of human rights detractors *within* international human rights institutions (196–97). In turn, the enforcement failures of the international human rights regime serve to delegitimize the universal human rights project. In short, international human rights law as a normative framework for advancing global human rights may be a victim of its own universalism.

As an alternative to the paradoxes of the universalist paradigm, Hafner-Burton offers a strategic alternative that would retreat from universalism, which she identifies as an aspiration and not a strategy (193). Instead, she would emphasize the role of “steward states”—those states with relatively strong human rights records and with a genuine commitment to human rights norms—to use their influence and power to promote human rights in targeted places where their efforts have a probability of leading to meaningful progress.

Notably, Hafner-Burton’s steward strategy would focus on both a more targeted set of human rights and a more limited number of countries than the universal framework of international human rights law. In contrast to the evolution of the international human rights regime, which has marked progress by continually expanding via adding state members to specific treaty regimes, clarifying treaty-based commitments through the (typically non-binding) work of treaty monitoring bodies, and creating specialized treaties covering new human rights issues, Hafner-Burton calls for a refocus on the protection of core rights. Likewise, she suggests that steward states should focus their efforts on a narrow subset of countries where progress is possible rather than expending resources on vague, untargeted efforts to promote human rights at the global level.

Two concepts are essential to Hafner-Burton’s argument: localization and triage. Although she emphasizes the critical role of steward states in making progress on human rights, Hafner-Burton is not calling for outside states to impose an external vision of human rights via force, a position that might otherwise subject her to charges of neo-imperialism from critics. To the contrary, she notes that state efforts to use foreign policy

to shape human rights outcomes in other countries will not succeed without a commitment to localization, a process in which local actors, especially ‘norm entrepreneurs’, must play a central role in vetting and translating human rights norms in politically and culturally appropriate ways for progress to occur.

A second concept that is vital to Hafner-Burton’s work—and that distinguishes it from perspectives that rely exclusively on global legalism as the primary tool for human rights promotion—is the notion of “triage.” Borrowing from the medical practice of determining order of treatment in contexts of scarce resources by separating the most critical and treatable cases from both less severe as well as more severe but less treatable cases, Hafner-Burton argues that states should triage their human rights policymaking. She contends that, in a context of high costs and scarce resources, states must engage in strategic decision-making and must prioritize spending in ways that recognize that the funding for human rights priorities is not limitless and that not all human rights violations lend themselves equally to effective and sustainable policy solutions. In her view, it is counter-productive to continue to spend significant resources to further institutionalize and expand an international human rights regime that has largely proven itself incapable of enforcing and implementing the human rights norms that have already been codified. It makes vastly more sense to spend money on targeted, perhaps less ambitious, strategies with greater likelihood of generating real human rights improvements.

Hafner-Burton develops the book’s argument in three parts. In part I, she explores the calculus of abuse that makes human rights violations more likely. Chapter 2 examines the contexts that make human rights abuses more likely, including violent conflict, illiberal rule, political dissent, poverty and inequality, intolerance and dehumanization, and crime and abuse systems. Chapter 3 considers the individual calculations that make participation in human rights violations likely, including rationalization, routinization, psychological factors, and monetary benefits. By outlining the proof that shapes the calculus of abuse in part I, Hafner-Burton helps to reveal the ways in which steward states could alter incentive structures in these contexts in ways that might improve human rights. In her analysis, responding directly to these incentive structures is far more likely to produce change than international legal frameworks that merely condemn abuses and assert that states have obligations to uphold rights.

Part II examines international human rights law in an effort to elucidate its limitations as mechanism for producing meaningful progress in human rights outcomes.

Chapter 4 explains the rationale for international law as a framework for promoting human rights. Chapter 5 offers an overview of the scholarship that explains the gap between how international law is supposed to operate as a coercive or persuasive tool and how it actually works in practice. Chapter 6 explores this gap from the perspective of practitioners. Chapter 7 considers the potential for reforming the international human rights regime and reaches the generally pessimistic conclusion that reform of international legal frameworks will be insufficient to produce real progress in making human rights a reality.

In part III, Hafner-Burton elaborates on her stewardship strategy for promoting human rights via state power. Although she acknowledges the limitations of this approach, she contends that it is far more likely to produce significant human rights improvements than international human rights law. Chapter 8 examines the general importance of localization and triage for the success of a stewardship strategy. In chapters 9 and 10, she offers detailed overviews of how stewardship and localization might work to improve human rights in practice. Chapter 11 makes the case for triage as a necessary tactic for ensuring that scarce human rights resources are expended in ways that are the most likely to contribute to the successful promotion of human rights. In summarizing the book's argument in chapter 12, Hafner-Burton makes the case that power should be viewed as a complement to rather than a substitute for the law and, to this end, is making a call to purist proponents of global legalism to take seriously her argument that more attention needs to be heeded to the realities of state power if real progress on promoting human rights is to be made.

Hafner-Burton indicates her sensitivity to the possibility that her arguments might be perceived as "anti-international law" and, by extension, antithetical to international human rights. Because the international movement for human rights has been highly associated with the development of the international human rights regime, any critique of international legal frameworks risks being perceived as contradictory to human rights themselves. To the extent that it is taken as given that international law offers the most effective, perhaps only, mechanism for advancing fundamental human rights at a global level, then it is understandable why critics might view Hafner-Burton's argument with skepticism. In particular, individuals who have committed their professional lives to striving to advance human rights via international law might be expected to resist Hafner-Burton's argument. In recognition of these concerns, Hafner-

Burton acknowledges the positive contributions of international human rights law, including articulating aspirational norms that may be leveraged by domestic actors to advocate for concrete policy changes at the level of the state and setting standards that have shaped states' foreign policies.

Ultimately, however, she underscores that human rights law is not an end in and of itself. Rather, the ultimate goal is to make actual progress in the realization of human rights. To this end, what works in practice matters more than normative "perfection" on paper, especially if formal written law does not produce genuine human rights improvements. An honest assessment of international human rights law indicates that it is most likely to produce concrete benefits in states that already provide basic legal protections for fundamental rights and where the worst abuses are less likely to occur. Conversely, the human rights regime has a much worse record of generating change in settings where the most egregious human rights violations tend to occur and in countries without socio-legal systems that are already supportive of basic human rights. In this context, "being pragmatic means using legal tools when they are capable of supporting human rights promotion. It also means being realistic about where laws—and procedures—fall short. Many human rights problems don't fit the solutions available in the legal system. In those cases—which are numerous and perhaps even growing—it makes sense to direct resources toward other promotion efforts that can have more effect, away from legal procedures that go nowhere, toward better-planned use of stewards' power if possible" (194–95).

Political science, with its focus on power and the pre-eminent role of states in international relations, provides the primary disciplinary framework for Hafner-Burton's argument. Enhancing both the rigor of its arguments and its multidisciplinary relevance, the book is also informed by important insights from a range of disciplines, including anthropology, criminology, economics, history, law, psychology, and sociology. Bringing together a strong command of the relevant scholarly literature and insights from practitioners and human rights activists, Hafner-Burton effectively bridges the worlds of scholarship and practice in developing a compelling, informed, and accessible argument regarding how to promote global human rights more effectively. This fantastic book makes meaningful contributions to the academic study of human rights and also offers a compelling vision of a practical strategy for advancing human rights that should be of interest to policymakers and practitioners. Ultimately, Hafner-Burton offers a clear-

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headed and compelling argument in this highly readable book that should be of interest to anyone committed to making human rights a reality.