

11-2020

The Morals of the Market: Human Rights and the Rise of Neoliberalism

Shane Darcy

Follow this and additional works at: <https://digitalcommons.unomaha.edu/id-journal>



Part of the [Ethics and Political Philosophy Commons](#), [International and Area Studies Commons](#), [International and Intercultural Communication Commons](#), [International Relations Commons](#), and the [Political Theory Commons](#)

Recommended Citation

Darcy, Shane (2020) "The Morals of the Market: Human Rights and the Rise of Neoliberalism," *International Dialogue*: Vol. 10, Article 12.

DOI: <https://doi.org/10.32873/uno.dc.ID.10.1.1186>

Available at: <https://digitalcommons.unomaha.edu/id-journal/vol10/iss1/12>

This Book Review is brought to you for free and open access by the The Goldstein Center for Human Rights at DigitalCommons@UNO. It has been accepted for inclusion in International Dialogue by an authorized editor of DigitalCommons@UNO. For more information, please contact unodigitalcommons@unomaha.edu.



Review

The Morals of the Market: Human Rights and the Rise of Neoliberalism

Jessica Whyte. Brooklyn, NY: Verso, 2019. 288pp.

Shane Darcy *

There are no doubt human rights advocates who would balk at the claim that somehow human rights serves to advance the cause of neoliberalism. An important tool for protecting human dignity, advancing equality and supporting demands for justice cannot surely be complicit in the evident harms of neoliberal economic policies? Such harms are increasingly recognized by human rights practitioners, including non-governmental organizations and United Nations experts. To take a recent example, Philip Alston, the Special Rapporteur on extreme poverty and human rights, described on a country visit to Spain in February 2020, how the country's self-image as "a close family-based society rooted in deeply shared values and social solidarity has been badly fractured by an economic crisis and the implementation of neoliberal policies." Numerous other examples

* Professor Shane Darcy is the Deputy Director of the Irish Centre for Human Rights in the School of Law at the National University of Ireland Galway, where he teaches business and human rights, international humanitarian law and international criminal law. He is the author of *Judges, Law and War; The Judicial Development of International Humanitarian Law* (Cambridge University Press, 2014) and *To Serve the Enemy: Informers, Collaborators and the Laws of Armed Conflict* (Oxford University Press, 2019). He is a member of the Editorial Boards of the *Business and Human Rights Journal*, the *Irish Yearbook of International Law* and *Criminal Law Forum*, and runs the *Business and Human Rights in Ireland* blog. He was a member of the National Board of Amnesty International's Irish Section from 2015–19.

can be found presently of human rights advocates emphasizing the negative impact of neoliberal policies on a range of human rights. How then can it be that human rights can be seen as part of the problem?

Jessica Whyte's new book *The Morals of the Market* provides an answer in this thought-provoking and engaging study on the relationship between human rights and the rise of neoliberalism. While noting how other scholars have looked at this phenomenon from the 1970s onwards, she takes us back to the drafting of the Universal Declaration of Human Rights in the late 1940s, and the lesser-known (at least amongst human rights lawyers) but undoubtedly significant articulation of core neoliberal principles and tenets by the Mont Pèlerin Society which occurred around the same time:

While both were concerned with threats to human dignity and liberty in the wake of World War II, their solutions differed markedly: the human rights delegates adopted an extensive list of social and economic rights, while the neoliberals depicted state welfare and planning as totalitarian threats to 'Western civilisation'. (5)

The book proceeds to explore how neoliberal thinkers developed the language associated with human rights "for their own ends," with Whyte contending that "a better understanding of the role of human rights in earlier neoliberal thinking can help us to understand their later convergence" (6). For neoliberals, the market not only served to distribute goods and services efficiently, it provided the necessary conditions for social peace and was a "guarantor" for the rights and freedoms of individuals (18). Rather than reject human rights as a potential challenge, neoliberals developed "their own of account of human rights as moral and legal supports for a liberal market order (19). The result was that human rights and neoliberalism became intertwined, not only in the rhetoric of Thatcher and Reagan, but in the language of international trade organisations, as well as prominent international human rights organisations, Whyte claims, including Amnesty International and Human Rights Watch (28–29). For the latter, "humanitarian intervention" is particularly incriminating, as a calling on the military might of powerful States "to intervene in the name of securing human rights and universalising a distinctive moral order" (30).

The introductory chapter certainly serves to pique the interest of the reader, but before turning to the substantive discussion of the book's main chapters, the author offers some important clarifications and caveats. These effectively serve to caution against any

over-simplification of the relationship between human rights and neoliberalism. Whyte explains that what she refers to as “neoliberal human rights” are not the only form of human rights to have existed in history:

[...] social democrats, socialists and anti-colonialists used the language of human rights throughout the twentieth century for ends that were at odds with neoliberal perspectives of the period, including to demand social welfare, national self-determination and racial equality. Nor do I claim that today’s human rights campaigns necessarily further neoliberal ends. My focus is on hegemonic conceptions of human rights, rather than uses of human rights by marginalised and subaltern groups. It is no doubt true, as theorists of rights have argued, that the claiming of rights can generate a site of ‘creativity and agency’, and that a politics of rights can open up a democratic space for ‘perspectival claims’ that seek to persuade rather than to shut down political contestation. But I do contend that the neoliberal contribution to human rights has been far more widely influential than most contemporary human rights defenders would like to admit—and not only on the political right or in the halls of power. (33)

Social movements and struggles that invoke human rights to challenge neoliberalism “may instead find that they strengthen its hold,” Whyte warns, unless they come to terms with this influence (34).

The core chapters of the book brings the reader on an enlightening journey through core debates of the inaugural meetings of the Mont Pèlerin Society and during the drafting of the Universal Declaration of Human Rights, interspersed with discussion of the writings of key figures, including economists, philosophers, historians and politicians. In chapter 2, for example, which explores the treatment of economic and social rights, Whyte elaborates on how neoliberals such as Hayek treated any attempts at ensuring such rights as “totalitarian” in nature (79). A welfare state was a pernicious threat to free enterprise and was viewed as “a political threat to a social order founded on the nuclear family and racial hierarchy, and as a moral threat to the values of self-reliance, independence, responsibility and human dignity” (92–93).

The inclusion of socio-economic rights in the Universal Declaration, which was railed against by neoliberal intellectuals, had also been contested by the drafters of the instrument. Such rights had strong support, such as from China, Chile, and the Soviet bloc,

although the United States and United Kingdom showed concerted hostility, which carried with it racialised and gendered implications. Socio-economic rights suffered subsequent neglect in the international human rights system and less than enthusiastic embrace by leading NGOs, as Whyte points out, although much has been done in recent years to move away from this dichotomous approach. But neoliberal thinking has been remarkably successful in shaping modern social welfare systems: Ken Loach's *I, Daniel Blake* provides an excoriating cinematic example of the current approach of the United Kingdom. The Covid-19 pandemic is laying bear the poisoned fruits of neoliberalism.

Whyte also provides an illuminating look at human rights in the context of decolonization, comparing the views of colonial powers and other States, and elaborating how neoliberals sought to develop a "market-friendly" conception of human rights in this context, and raging against the "totalitarian" reforms ostensibly aimed at raising living standards in Britain's colonies. The attempted inclusion of a "colonial clause" in the two human rights covenants in the 1960s aimed at excluding trusts and non-self-governing territories from the scope of those instruments was successfully resisted. Even so, Whyte asserts, those opposing States "relied on narratives of progress to depict human rights as civilising technologies" (139). By adopting this stance, she argues, these States "unwittingly prefigured the later repurposing of human rights; in a changed geopolitical context, the civilising mission of human rights would license coercive interventions to remake societies, subjectivities and economies in the interests of global capitalism" (141). It may have been neoliberalism and its practitioners that hijacked human rights for this purpose, but the book ascribes blame even further.

Chile under Pinochet provides an important case study of neoliberalism in practice in chapter 4 and offers an example of human rights non-governmental organisations being labelled as effective accomplices in the economic harms perpetrated on the population during this period. Amnesty International, for example, focused narrowly on torture, killings and disappearances and thus were criticised by Naomi Klein for allowing the ideology of neoliberalism "to escape from its first bloody laboratory virtually unscathed" (158). Whyte notes the criticisms of this claim, such as that of Samuel Moyn, but also asks provocatively why international human rights organisation also "flourished" in this period and were given relative access to Chile by the regime. While neoliberals had on the one hand co-opted the language of human rights and developed their very attenuated "neoliberal vision of human rights" (160), which is analysed at length in the Chilean context for this

chapter, not all will be persuaded by the claim also made that on the other hand “[i]n focusing their attention on state violence and unlawful political mobilisations while upholding civil (or market) society as a realm of freedom and voluntary cooperation, human rights NGOs lent credence to the great neoliberal dichotomy between coercive politics and free and peaceful markets” (160).

The “politely worded reports” of human rights organisations consciously avoided the economic aspects of Pinochet’s reign without question but their overall approach, Whyte contends, “discredited political challenges to the inequalities and impersonal domination of market society.” Omissions are made to carry great weight in this analysis. The religious beliefs and at times condemnable views of Amnesty International’s founder, Peter Benenson, are used to add background to the organisation’s approach and to underpin the attendant argument that in Chile, Amnesty “bolstered the neoliberal dichotomy between violent politics and civil society, thus contributing to a narrowing of the political and economic margins” (181). Whether one agrees with this view, there is no disagreeing that Chile offers a compelling example of “the institutionalisation of the conservative vision of neoliberal human rights” under Pinochet (188), the effects of which continue to be felt.

The Morals of the Market is rich in detail, demonstrating a remarkable degree of research, as well as much considered reflection by the author. The analysis is often persuasive and occasionally provocative, although the case may be overstated at times, not in relation to the critique of neoliberalism and its ardent purveyors, but of the complicity of human rights. To say in chapter 5 that *Liberté Sans Frontières* provides “a particularly stark example of a more general phenomenon—the uptake of neoliberal ideas by human rights NGOs in the period of their simultaneous rise” (201) generalises the views of a relative *inconnu* to a far broader but clearly distinguishable cohort. Given the emphasis on economic theory and philosophy, there are times when some in the human rights field, perhaps those from a narrower international law perspective, might empathise with the feeling of Eleanor Roosevelt, who claims to have been unable to follow some of the “lofty” philosophical discussions of fellow delegates at one point during the drafting of the Universal Declaration (51). The book, however, is highly rewarding for all who engage with its expert elaboration of the interaction between human rights and neoliberalism, regardless of their disciplinary background.