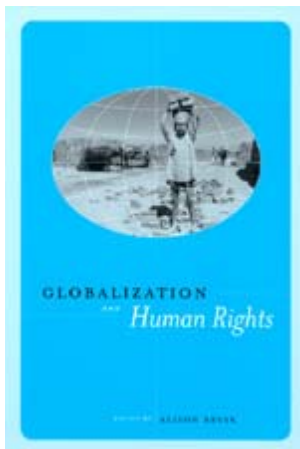# Human Rights and Globalization: Is the Shrinking World Expanding Rights?

By Zehra F. Kabasakal Arat

The Globalization of Human Rights. Edited by Jean-Marc Coicaud, Michael W. Doyle, and Anne-Marie Gardner. Tokyo: United Nations University Press, 2003.

Globalization and Human Rights. Edited by Alison Brysk. Berkely: University of California Press, 2002.

Globalization has been a popular subject for decades and addressed in a wide variety of academic studies and popular readings. Scholars and advocates who work in the expanding field of human rights have been no exception and have contributed to the burgeoning literature on globalization. The Globalization of Human Rights and Globalization and Human Rights are two welcome additions to this body of literature. As their titles imply, the two volumes attempt to emphasize relatively different aspects of the relationship between two terms: globalization and human rights.

Both volumes are undertaken with an understanding that there has been an increasing international acceptance of human rights at the normative level, but that the norms have not been applied to improve human rights conditions, and their meanings and relevance are contested. As the literature that came out in the 1990s pointed to state sovereignty as the main obstacle to globalization and raised hopes about transnational civil society and networks,[1] these two volumes examine a broader set of actors and the processes of globalization in addressing the practice and prospects of human rights.

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[1] See, e.g. Dunne and Wheeler 1999; Keck and Sikkink, 1998; and Risse, Ropp, and Sikkink 1999.

The Globalization of Human Rights (GofHR) focuses on the spread of the human rights norms in different regions of the world and examines the differences in the definition, interpretation and implementation of these norms at domestic, regional and international levels. In the introduction, Michael Doyle and Anne-Marie Gardner remind us Roslyn Higgins' observation about the special aspect of human rights law: "What makes human rights deeply similar to the broad principles of international ethics, yet 'strikingly different from the rest of international law' is that individuals, rather than states and governments, have rights. This shifts the focus from state sovereignty to individual sovereignty" (9). Doyle and Gardner then aptly problematize the meaning of international human rights and their place in international order and international relations, because even though human rights ontologically support individual sovereignty, the current international regime of human rights is still based on an international political structure that assumes and cherishes state sovereignty. The contributors to the book discuss the issue of consensus on human rights (or the lack of it) with a special attention to the arguments about the relationship between economic and social rights and the more widely accepted civil and political rights. They delve into the role of global structures, both economic and political, in preventing the development of a global normative consensus and the realization of human rights.

Similarly, Globalization and Human Rights (G&HR), as a whole, is concerned about understanding the "phenomenon" of globalization and its impact on human rights—whether it establishes a threat to human rights or creates opportunities for the advancement of human rights. Since globalization is treated as the key independent variable, editor Alison Brysk reviews various definitions of globalization in her introductory essay, and chapter authors introduce their own understanding of the term. While some refer to globalization as a process that started with history, others, who are impressed by the rapid integration of markets and the revolutionary changes in communication technologies within the last two or three decades, tend to define it as a more recent phenomenon. They also differ in their treatment of the phenomenon in qualitative and quantitative terms. For example, Wesley T. Milner focuses on "economic globalization" and defines it as the integration of economies in institutional, commercial and financial terms. Milner emphasizes economic globalization's quantitative aspect (without denying the qualitative one) and characterizes globalization as an attribution of states, which varies in degree and is therefore measurable for each state.

The disagreement on the meaning of the term, of course, constitutes a problem in reaching an agreement about the impact of globalization as well. Consequently, the volume falls short of providing a clear assessment of the impact of globalization on human rights conditions. However, the data and arguments presented in these two volumes, along with the information drawn from the existing literature, enable some propositions.

Globalization is also a politically-loaded term that stirs emotions and divides people into "pro" and "anti" camps. Since the ambiguity about the meaning of the term lies at the heart of the controversy, we have to start by addressing the definition issue.

In its 1999 Human Rights Development Report, the United Nations Development Programme (UNDP) defines globalization as shrinking space, shrinking time, and disappearing of borders. We can add to and clarify this poetic description with a note that globalization involves increased human mobility and interaction, creation of a single/integrated market, and development of common norms and values. Defined as such, globalization appears to be *a process* that is *age old* (goes back to

the ancient times), *continuous*, and *irreversible*. Facilitated by technological developments in transportation and communication, as well as by some socio-political changes, this process may be sped up at certain junctures. For example, the improvements in the navigation technology and the advancement of capitalism served as technological and social catalysts in the 15th and 18th centuries, respectively. The subsequent imperialist expansion of Western states also served as a facilitator. In fact, the important role of capitalism and imperialism in the earlier stages is what prompts some analysts on the left to associate globalization with capitalism or to treat the two processes as one and the same. Similarly, the rapid progress in communication and information technologies, the collapse of the Soviet system, and the end of the Cold War are the technological and sociopolitical factors that have fostered the globalization process during the last two decades. I believe it is this remarkable rate of change that leads many to perceive (wrongly) that the recent *phase* of the globalization process is a *new phenomenon*.

What does globalization offer? The three aspects of globalization mentioned above—increasing interaction among people, integration of markets, and development of common norms and values— are essentially neutral and can offer great opportunities to people. The advancement of human rights, for example, has been a part of the globalization process: a set of norms and values has been recognized as universal human rights, even though they may not be fully accepted or implemented. In fact, this is the crux of the arguments presented in GofHR. The trend toward the creation of common human rights norms can be traced back to at least the anti-slavery movement, but it gained momentum in the twentieth century. Although human rights started to gain diplomatic currency during the World War I era, and the International Labor Organization (1919) was significant for the articulation of common labor standards and rights, it has been the United Nations (U.N.)—with its Charter (1945), Universal Declaration of Human Rights (1948), two Covenants on civil and political rights and economic, social and cultural rights (1966), and numerous other conventions, treaties, and global conferences—that globalized human rights. In GofHR, Pierre de Senarclens finds the origin of human rights in the humanism of the European Renaissance and reports a more Eurocentric chronology. Nevertheless, he and other authors in the volume, as well as several others in G&HR, emphasize the significance of the U.N., which can be taken as an institutional expression and instrument of globalization at the same time.

Focusing on the globalization of human rights, the contributors to GofHR acknowledge that human rights norms articulated in the U.N. documents are not fully accepted by the member states and discuss various forms of resistance and their justification. Indeed, in addition to the well known challenges of "inconsistencies with the Islamic Shari'a" and "Asian values," which some religious and political leaders of Muslim populated states and Asian countries have voiced, there also has been philosophical and political resistance to accepting social and economic rights within the body of human rights, or treating human rights as an integrated and interdependent whole. In his essay on Asian values, Tatsuo Inoue finds Asian leaders' arguments against the expansion of freedoms and political liberation to be weak in their philosophical grounding and empirical support. He invokes Amartya Sen's famous study of famines in the developing world, which show that political liberalization and democratization can prevent such catastrophes and concludes that civil and political rights are necessary for the protection of social and economic rights.[2] Inoue also argues

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[2] See Sen 1981.

against the commonly held notion that individualism and communitarianism are distinct characteristics of Western and Eastern value-systems and asserts that "the tension between individualism and communitarianism runs not between the West and Asia but through both of them" (Inoue in Coicaud, Doyle and Gardner: 128). Claire Archbold's chapter on incorporation of human rights in domestic law in Canada and South Africa and James Mouangue Kobila's comparison of regional human rights declarations and conventions show that accepting human rights in a selective manner is not unique to the Asian countries. Although they may be able to maintain a higher standard of living, Western states have been reluctant to treat social and economic rights on par with the widely cherished civil and political rights. However, in their separate chapters, Ruth Gavison and Pierre de Senarclens convincingly argue against the selective treatment of human rights and dispute the assertions made in favor of prioritizing civil and political rights.

Even though the content and applicability of universal human rights—or universalism itself—are debated, the very existence of such debates on human rights corroborates the idea that human rights have been a part of the globalization process. Continuous violations and the selective acceptance of some rights by different states and groups, however, point to the significance of the terms under which globalization has taken place. As Richard Falk brought up in an earlier study (1999), and emphasizes in his essay in G&HR, there are different kinds of globalization, namely globalization-from-below and globalization-from-above; and it is the latter one that generates international protests against the international finance and trade agencies (61). We may further specify that while globalization-from-below is directed by people, based on equality, and motivated by cooperation, globalization-from-above is directed by capital/markets and corporate media, based on inequality and motivated by competition. Falk and other authors in G&HR (as well as Henry Shue and some other authors in GofHR) indicate or imply that we have been experiencing the latter. Nevertheless, Falk takes an optimistic stand, by emphasizing the co-existence of both types. While critical of globalization-from-above, which he also calls "neoliberal globalization," he rejects the notion that "there is an inherent contradiction between the promotion of human rights and the goals of global market forces" (Falk in Brysk: 63). Encouraged by the increasing transnational criticisms and global mass protests, he notes that "a radical extension of democracy that goes well beyond the state/society electoral relationships" can reform the neo-liberal globalization "without undermining its beneficial effects" (Falk in Brysk: 63).

However, despite the shrinking world, borders have not disappeared and globalization is taking place in an international political structure that is based on the state system. Within this system, borders may be porous for some but have been firm for others. For example, while capital tends to be free and mobile, people (laborers) cannot move freely. Those who hold "migrant worker status" are subject to mistreatment and exploitation. Lacking citizenship, they fall into a particularly vulnerable category (Maher in Brysk). Moreover, there are power differentials between states, and economic inequalities between and within states are real and increasing. Pierre de Senarclens' piece in GofHR, reports some of these increasing economic inequalities and power differentials. Quoting William F. Felice that "we must move beyond human rights law and legal positivism to the realm of international political economy" (1999: 589), de Senarclens examines the role of the global financial agencies—the IMF and the World Bank. He notes that "these institutions often contributed in the past to the social crisis of developing countries by supporting policies that condemned millions of human beings to lives of misery and grave violations of human rights . . . as a rule their policy triggered a high level of unemployment and increased inequality" (153). He further adds that these

financial agencies "continue to propose development strategies which take no account of human rights as proclaimed by the United Nations and the treaties ratified by states on the subject" (153). In reference to the structural adjustment policies required by the IMF and the World Bank, UNICEF had reached a similar observation: "the real cost of adjustment is being paid disproportionally by the poor and by their children," especially by women and girls (1997: 28). Other studies reported a decline in girls' school enrollments and increase in domestic violence—issues that are ignored by the traditional human rights approach but addressed as human rights violations within the transnational feminist discourse and global women's movement—in countries that had implemented the structural adjustment policies in the 1980s (Vickers 1991: 22-30).

Here, we need to highlight two important aspects of the global power structure. First, while the IMF and the World Bank swing as double-edged swords over the heads of poor states that are in a persistent state of financial dependency, they never interfere in the affairs of rich states, although their economic policies tend to have detrimental effects on the rest of the world. Second, partially due to the weighted voting system within the governance of these organizations, some state agencies of wealthy countries, especially the United Sates Treasury Department, shape the lending policies and impose on the borrowing states a senseless neoliberal philosophy. Even the former chief economist of the World Bank, Joseph Stiglitz, criticized policies shaped by this "market fundamentalism" for offering little help to the financial problems of the borrowing countries (Stiglitz 2003). The policies, on the other hand, help the economies of the wealthy countries by perpetuating the debt-dependency of the borrowing states. Analyzing the "debt crisis" of the 1980s, UNIFEM reported that while the net transfer of funds from the global North to South was $19.1 billion in 1980, by 1990 the direction of the flow changed, and $27.5 billion was transferred from the global South to North (UNIFEM 1990: 6).

Economic dependency shifts not only wealth but also the poorer states' power to formulate domestic social policies to the wealthier states that exercise this power through their financial aid requirements and control over the international-lending agencies. The ironic outcome is limited state sovereignty that contributes little to the protection of human rights but sets the stage for the deterioration of social and economic rights in recipient countries.

Jean-Marc Coicaud's chapter in GofHR directs our attention to the political power differentials and their perpetuation. He notes that:

the beginnings of modern international law were very much a self-serving exercise for the major European powers. Modern international law was used to endorse and justify the distribution and workers of evolving international power structures…. To this day the economic and political interests of the most powerful countries have remained integral parts of the making of international law (188).

In a similar vein, Henry Shue provides a succinct summary of the observations and arguments of several scholars about the privileged position of the better-off in designing the rules for the process: "the radical inequality in power existing at the beginning of globalization has enabled globalization to be structured so that it makes the radical inequality in wealth progressively worse" (Shue in Coicaud, Doyle and Gardner: 169).

These authors, however, fall short of identifying the role of the key player, the United States, in the process of globalizing human rights and reinforcing globalization-from-above, in the way some other analysts had done earlier. Tony Evans, for example, pointed out that the United States not

only formulated "an American conception of rights," which is based on ideas of individualism, freedom and *laissez-faire* economics, but also used human rights as a justification of projecting this particular conception of rights across the globe to assert its hegemony and gain access to world markets. The concern over preserving its hegemonic status and self-interest led the U.S. to take a status-quo-oriented position vis-à-vis human rights (Evans 1998).

Neoliberal economic policies, always promoted by the United States and now implemented practically everywhere, reinforce market-led globalization. They also erode the state capacity (and will) with regard to promoting the public good, regulating private economic activities, providing services (e.g., education, health care, etc.), and investing in improving the quality of life and human development. Thus, the ultimate impact of the recent phase of globalization seems to be increased unemployment;[3] rising poverty and inequalities in income and wealth;[4] a noted decline in labor rights and unionization rates *(Human Development Report 1993*, 1993); increasing use of child labor (Arat 2002); and the spread of global criminal acts such as trafficking of humans, drugs, weapons, and money.[5] If we take these statistics as indicators of human rights conditions, each points to a number of human rights violations, experienced both in developing and developed countries, albeit in different degrees. Moreover, while the state commitment and ability to deliver social welfare decline, the repressive power of the state remains intact, if not reinforced. The global wave of democratization, which impressed many in the 1980s and 1990s, appears to entail only a cosmetic, procedural democratization that allowed few liberties (Arat 1999).

As power shifts from states to other global actors such as transnational corporations, international financial agencies and the powerful countries that guide them, ordinary citizens are becoming aware of these new loci of power as well. After all, globalization also entails the spread of human rights norms and development of transnational networks, and actors that push for globalization-from-below challenge the status-quo. Consequently, the target of protest movements and demonstrations (which also involve the advocacy of human rights) has also shifted from individual states to global actors such as the World Trade Organization, the IMF, and the World Bank. In fact, Henry Shue, while emphasizing transnational moral duties in both protecting human rights and remedying violations, assigns a higher responsibility to the beneficiaries of globalization (citizens of the industrial societies) and insists that the institutions that determine the process and private choices should be the targets of protest and change (Shue in Coicaud, Doyle and Gardner: 167). Increasing access to communication devices, such as telephones, faxes and most importantly the Internet, has been enabling transnational collaboration for such activities.

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[3] The United Nations reports that "at least 150 Million of the world's workers were unemployed by the end of 1998" (*Human Development Report 2000*, 2000).

[4] The Human Poverty Index, developed by the UNDP for 85 countries, exceeds 33 per cent in 27 of the 85 developing countries, implying that human poverty affects at least a third of the population in more than one third of the developing world. In other words, nearly 1.2 billion people live on less than a dollar a day and cannot meet their basic needs. *Human Development Report 2000* also indicates that "the distance between the incomes of the richest and poorest country was about 3 to 1 in 1820, 35 to 1 in 1950, 44 to 1 in 1973 and 72 to 1 in 1992" and "gaps between rich and poor are widening in many countries," industrial and developing (6).

[5] See Amy O'Neill Richard, *International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime.* Center for the Study of Intelligence, April 2000; *United Nations Office for Drug Control and Crime Prevention,* Global Programme against Trafficking in Human Beings. An Outline for Action. February 1999.

In his essay in G&HR, "The Ironies of Information Technology," Shane Weyker discusses the opportunities created by information technology for human rights NGOs, but also warns that new technologies create some pitfalls that may cause new vulnerabilities to surveillance and sabotage. I should add that the access to the new information technologies has not been equal, either. The digital divide is real and wide (Larson 2002: 6, 16) and differences in access are likely to reinforce the gap between well-equipped international or major national NGOs on the one hand, and grass-roots movements on the other, and reinforce the already hierarchical relations that exist among different human rights advocacy groups. Cliford Bob's review, in G&HR, of the success of the Ogani people in Nigeria in attracting international attention to the violations of human rights in their country, inadvertently illustrates the pressure felt by local human rights activists to match and synchronize their actions with the campaigns of foreign advocates.

Transnational human rights networks and campaigns are promising, and are seen by many (e.g., Richard Falk) as foundations of a transnational civil society that would be the leading force of globalization-from-below and would counterbalance, if not reverse, the currently stronger trend of globalization-from-above. Two transnational campaigns examined in G&HR, however, point to the persistence of problems or ineffectiveness of the outcome, even when the outcome appears to be favorable. Jonathan Fox reports that the World Bank Inspection Panel, which was created in 1993 as a response to the criticisms about the environmental and social cost of the Bank's projects, has been far from meeting the expectation that it would serve as a mechanism of accountability. Focusing on the controversy over linking labor standards to trade at the WTO meetings, Raul C. Panglang notes that the prevention of such linking may appear to be a victory for human rights. Yet he finds the shift from protecting "labor standards" within the "hard law" treaty system followed within the WTO to "labor rights" protected by the "soft law" of ILO conventions as problematic and simply a victory of the national elites who are oblivious to human rights norms. In his words, "the real competitive advantage of sweatshops lies in a national elite's willingness to immiserize its people. That raises ethical questions that people of other nations are both entitled to judge for themselves and to respond to through international law" (Panglang in Brysk: 109). Panglang's confidence in the WTO puts him at odds with some other analysts such as de Senarclens and Shue, who are critical of inter-governmental institutions that are guided by the privileged states of the world and guide the globalization process at the detriment of human rights. What they see as problems of global political economy have been complicated by the problems pertaining to international human rights law, which Coicaud addresses: "[A]t the international level, there is no direct connection between international law and international organizations, on the one hand, and individuals and their rights on the other" (191), and as we all know, "There is no immediate legal recourse based on international human rights treaties and conventions to force states to live up to their commitments at home" (192).

On the positive side, the increasing economic gaps have alerted people to long-neglected social and economic rights. Another noteworthy development is the increasing attention to women's rights and incorporation of "women's human rights" into the human rights discourse (Moghadam 2005). Globalization has also created some economic opportunities for women. However, many of these opportunities are formed in sweatshops or in the sex industry—they, thus, offer marginal income but significant abuse. Nevertheless, increasing participation of women in the economy, even if it is largely in the informal sector (and in the public sphere in general) holds the potential of empowering some women (Mae, Bayes et al. 2000). In her essay, "Tourism, Sex Work, and Women's Rights in

the Dominican Republic" in <u>G&HR</u>, Amalia Lucia Cabezas addresses the complexity of this issue and challenges some common presumptions about the meaning of sex work in terms of women's subjugation and rights.

Even though I insist that globalization has been an old and ongoing process, there is no doubt we are living in an extraordinary period. The change and turmoil may not be as striking as they were in the late 18th Century, an era which later inspired Charles Dickens to write the famous line, "it was the best of the times, it was the worst of the times." Nevertheless, what we observe in our own time as *a peak* of the globalization process is similarly paradoxical. As there are new opportunities for the advancement of human rights, there are numerous obstacles as well. That is why the contributors to these two volumes vary in their individual assessments of human rights and consider the glass either half-full or half-empty.

Economic and social rights have been largely neglected both in terms of international recognition and policy implementation. The recent phase of globalization enriched some but did not improve the human rights conditions for a large segment of the world population. Labor rights and social services have been assaulted by the upward trend of neoliberal policies. Improvements in civil and political rights have been uneven, mostly symbolic, and perhaps unsustainable. Especially since the attacks of September 11, 2001, national security and order have reemerged as values that are considered to be more important, and that can be maintained only at the expense of human freedoms. Measures taken by the United States and its allies in connection to their "war on terror" show the fragility of human rights—rights that were assumed to be well-established and secure at least in "mature" Western democracies.

Perhaps because they were written before September 11, 2001, the chapters in these volumes do not address these developments. However, it should be noted that international terrorism is also part and parcel of the process of globalization. Terrorist acts carried out on behalf of some oppressed people and their rights invoke the same language and norms and utilize the same communication technology that help form and sustain human rights advocacy networks. However, whether global or local, terrorist networks constitute a two-fold threat to the advancement human rights. First, terrorist acts directly violate the right to life and various freedoms of their actual and potential victims. Second, restrictive measures, supposedly taken by the state against terrorism, tend to affect all people, especially the dissident and critical voices that usually include human rights advocates.

Nevertheless, I suspect that incorporating post-September 11 developments would have changed the overall view and assessment of the individual writers in these books, because their accentuation of the positive or negative seems to stem from their different approaches rather than the data examined. Those who stress the *structural* obstacles, the economic and political power differentials (a group that includes most of the authors in <u>GofHR)</u> tend to see the glass as half-empty. Those who appear to be taking a post-modernist approach and emphasizing *agency*, however, trust the perseverance of human rights advocacy groups that have established and enjoyed the reinforcement of transnational civil society networks. Of course, the relentless work and contributions of numerous civil society organizations and networks should be acknowledged first for putting the promotion and protection of human rights on the United Nation's Charter and international agenda (Korey 1998). Moreover, the concept of human rights was advanced and became a legitimizing devise largely due to their continuous efforts of lobbying, monitoring, reporting, protesting and shaming states (and more recently inter-governmental organizations and

transnational corporations). Nonetheless, we can neither overlook the uneven distribution of power nor ignore how that power differential and the close cooperation (networks) among the powerful have limited the influence of the forces of globalization-from-below and prevented the advancement of human rights beyond the normative level.

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