

## *Globalisation, Human Rights and Civil Society*

**(eds) Melinda Jones and Peter Kriesler  
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The Hon Sir Anthony Mason AC KBE\*

Globalisation, now a seemingly irresistible force, presents an extraordinary set of challenges to the modern world. There are many aspects to globalisation. They have their origin in the technological revolution which has changed the face of economics and world trade. Economic and financial considerations have assumed a paramount position in dictating policy decisions not only in the field of trade and investment but also in matters of general governance. Policy choices formerly available to the nation state are now fettered by external economic imperatives and decisions made by international and regional entities.

These changes have serious consequences for a world order which is based on the internal democratic organisation of the nation state and its capacity to make a wide range of decisions which affect the economic and social welfare of its citizens. These changes necessarily have consequences for the protection of human rights, not merely because the willingness of the nation state to protect human rights is under pressure but also because the power of the multinational corporation has been greatly strengthened. And last, but certainly not least, the new world order, in which the US's hegemony threatens to rival Macedon's dominance of the Hellenistic world, poses a problem for the sense of community on which our ideas of civil society have been based.

The constant theme in the essays in this book is that we are not confronted with the need to make a stark choice between pursuit of economic growth and maintaining adequate protection of human rights, in particular economic and social rights. As a general proposition, this approach has much to commend it, though its application seems to be very much a matter of pragmatic judgment in the absence of the adoption of a Bill of Rights regime.

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Recent events in Australia, notably mandatory sentencing, indicate that there is a need for at least a statute based Bill of Rights regime in Australia. Nonetheless, the prospect of the adoption of such a regime in Australia, even a statute based regime confined to civil and political rights, is not very strong. Most politicians are naturally opposed to a Bill of Rights and conjure up the spectre of a 'feast for lawyers' seeking to capitalise on the popular antagonism to lawyers. The prospect of adopting a regime of social and economic rights strikes me as even more distant.

Peter Bailey's cogent advocacy of 'The right to an adequate standard of living' leaves me unconvinced that an entitlement to an adequate standard of living is a matter that should be entrusted to the courts. Likewise, with Burgess and Mitchell's notion of a right to employment or right to work. In both cases, it is unlikely that, in present circumstances, there will be sufficient popular support in Australia for these proposals. That is not to say that they do not merit serious consideration.

A stronger case is made out by Braham Dabscheck for the recognition and enforcement of human rights in the area of industrial relations. The author paints a disconcerting picture of abuses afflicting the employment of female and child labour. Historically there have been many examples of employment on oppressive conditions and the modern world provides fresh instances. There is, however, a need for balance and an appreciation that Western standards may not provide an appropriate yardstick. Developing nations wish to attract foreign investment and attempts to impose our views upon them are likely to be counterproductive.

As Chris Nyland and Robert Castle point out in 'The economic analysis of employee rights', legislative protection of employee rights has come under strong pressure from increased international competition and rising unemployment. This has been strongly evident in the Anglo-Saxon world where the belief has prevailed that workers' rights were an obstacle to productivity gains and international competitiveness. To the extent that workers' rights have been excessively protected, this belief may be well founded. But there is a risk that the reaction is excessive. There is therefore a strong case for ensuring that minimum labour rights are guaranteed by law, at least in countries like Australia. A discontented labour force is likely to be less productive than one which works under fair conditions.

There are signs that human rights observance is increasingly embraced as an element in business ethics. Multinationals like Shell, previously considered to be hostile to the environmental cause, wounded by hostile public opinion, now see

environmental protection as a commendable aspect of business ethics. Such is the force of critical public opinion, few international corporations are willing to court the hostile opinion that so often accompanies abuses of human rights. There is the prospect that corporations will in the future seek to be seen as good corporate world citizens and so become an important catalyst in human rights observance. Moreover, institutions like the World Bank endeavour to ensure that compliance with human rights and good democratic and judicial governance is a condition of prudential investment.

Globalisation has been regarded as the enemy of the welfare state. J W Nevile identifies a number of human rights issues in connection with the welfare state. The author makes the point that the basic problem lies not in governmental failure to maintain the safety but in the market's failure to deliver anything like full employment. This is a telling comment against the free marketeers who constantly assert that the free market will improve the standard of living of the community generally. The existence of unemployment on a significant scale reinforces the need for both adequate safety nets and welfare benefits.

There is in any event a dilemma which confronts decision makers in borrowing countries, as Barrie Dyster points out: are the penalties of non-conformity with the conditions imposed by overseas lenders more damaging for people in the borrowing country than compliance with the conditions sought to be imposed?

Louis Haddad's description in 'Economic dimensions of human rights in transition economics' of the radical changes that have taken place in the Communist bloc countries is of abiding interest. The transition has been disastrous for the bulk of the population, particularly those over 45 years of age, whose benefits have been effectively reduced. What is more they have no real hope of effectively improving their position. This is the legacy of the rush to privatisation in Eastern bloc countries. Yet it seems to be a legacy without a remedy.

Michael Pusey, in his concluding essay 'Economic rationalism, human rights and society' draws attention to the damage that that an exclusive focus on economic outcomes can do to the fabric and the spirit of civil society as well as respect for human rights and human dignity. On the other hand, Pusey does not regard the current scene as all doom and gloom. He thinks that the idea of civil society is faring 'very well', that it seems to be adjusting to the new developments and that it may emerge from recent travails strengthened rather than weakened. He points out that the new vogue of increasing international regulation through international agreements opens the way for the creation of social obligations binding on governments and corporations. And he suggests that human rights

are not only now commonly backed with a claim to universal validity but also that they are expanding to include claims for the basic social goods. Whether the latter claims may ultimately weaken the human rights cause remains to be seen.

These essays serve an instructive purpose in outlining the impact of economic rationalism on human rights and civil society and in alerting us to the dangers inherent in an approach which is exclusively centred on economic and financial outcomes. ●