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## **Effectiveness and Legitimacy of International Human Rights Instruments**

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*Do the Geneva Conventions Matter?* Matthew Evangelista and Nina Tannenwald, eds. Oxford University Press, 2017.

*The Human Rights Covenants at 50: Their Past, Present, and Future.* Daniel Moeckli, Helen Keller, and Corina Heri, eds. Oxford University Press, 2018.

The recent pushback against global governance institutions is on the rise. The election of Donald Trump as the 45<sup>th</sup> President of the United States has raised suspicion on the benefits of global governance institutions and international cooperation. Meanwhile, the UK referendum on June 2016 generated Brexit, or the scheduled withdrawal of the UK from the European Union — an outcome that further casted doubts on the wisdom behind partially ceding a state's sovereignty to a supranational organization. Remarkably, the emergence of far-right politicians mobilized discourses that seek to reclaim supposedly unconditional state sovereignty from international institutions, including instruments of public international law pertaining to human rights. Authoritarian and far-right politicians in a wide range of geographical territories — such as Modi in India, Bolsonaro in Brazil, Erdogan in Turkey, among many others — champion a politics of discrimination and exclusion, while disregarding systems of accountability that keep their power in check. For example, Filipino President Rodrigo Duterte has regularly criticized international opposition against his bloody 'war on drugs'. Duterte's dismissive attitude towards international human rights norms and standards eventually led to the withdrawal of the Philippines' membership from the Rome Statute, which forms the legal basis for the establishment of the International Criminal Court. In countries such as Yemen, Venezuela, Syria, and South Sudan, mass atrocities have emerged while many rich and supposedly established democracies in the global North have been remarkably less committed in promoting human rights abroad.

Such aforementioned developments generate an intriguing puzzle: Amidst the rise of a growing pushback against the international human rights regime, how and under which conditions do instruments of the international human rights regime protect the well-being of the most marginalized and vulnerable individuals? The two books reviewed here seek to understand the legitimacy and effectiveness (or the lack thereof) of international human rights covenants and conventions. The first book is the edited volume titled *Do the Geneva Conventions Matter?* by Matthew Evangelista and Nina Tannenwald. The second book is *The Human Rights Covenants at 50*, an edited volume by Daniel Moeckli, Hellen Keller, and Corina Heri.

This review essay is organized into three parts. First, I present the key objectives and core arguments of both volumes and review how their analyses and contributions match with their intended aims. Second, I present some common overarching puzzles concerning the effectiveness and legitimacy of the international human rights regime and critically review how both volumes address them. Third, I conclude this review by raising other key challenges faced by the global human rights regime that may be addressed through further research.

The first volume, constituted by thirteen well-written chapters, offers a multidisciplinary analysis of the Geneva Conventions' effects and political consequences. It focuses on the post-1949 period of the Geneva Conventions. The various chapters investigate particular historical cases based on the overarching puzzle that inquires how and under which specific constellation of conditions do the Geneva Conventions induce state agents into compliance while in the battlefield. Theoretically, the volume posits that examining the Conventions' broader effects requires the recognition that law does not only pertain to a set of rules and precepts. Rather, laws function as a dynamic operative process for solving social and political conflicts particularly by shaping normative expectations of concerned stakeholders. Moreover, the Geneva Conventions provide the normative framework and the moral vocabulary in debating and (de)legitimizing violent state actions during wartime. The Geneva Conventions also shape the identity of states, as the laws of war have facilitated the formation of the normative elements that supposedly constitute a 'civilized' state and the regulation of a 'civilized war'.

In addition to those regulative and constitutive effects, the volume argues that the Geneva Conventions have generated some unintended externalities : (1) the emergence of a wide variety of humanitarian organizations that cooperate, and at times, compete in the field of international humanitarianism; (2) the designation of political status on rebel groups that appear to accede to compliance with humanitarian rules in times of war; and (3) the legitimization of war for the sake of purportedly humanitarian objectives.

Indeed, *Do the Geneva Conventions Matter?* is an important scholarly contribution to international humanitarian law, as it offers a theoretically-informed, empirically-rich, and well-argued account of the effects and consequences of the contemporary laws of war.

The second volume, on the other hand, focuses on the origins, achievements, consequences, and assessment for the future of the international human rights covenants, namely the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). In contrast to the first volume on the Geneva Conventions that demonstrates a broad social scientific analysis and multidisciplinary enterprise, the second volume analyzes the Human Rights Covenants primarily through the lens of public international law.

This volume on the human rights covenants is divided into three parts. Part 1 provides a historical assessment of the covenants' achievements, with chapters that review the covenants' historical origins and milestones. It argues that the success of the covenants is reflected on several achievements, including the establishment of various monitoring mechanisms such as the Human Rights Committee (HRC) which has developed an ample jurisprudence on civil and political rights issues. Part 1 also includes a chapter that calls for the Committee on Economic, Social and Cultural Rights (CESR) to formulate a set of sound interpretative guidelines, to use those principles in a consistent fashion, and to disclose the processes that generated a specific interpretive result. Part 2, meanwhile, provides an assessment of the impacts of the ICCPR or the ICESCR in several world-regions, including Africa, Middle East, South America, Asia, and

Europe. Those regional assessments suggest several broad findings: (1) the existence of domestic legislation reinforces the Covenants' domestic impact; (2) the complementary content between the Covenants and regional human rights law instruments bolsters the former's impact on domestic politics; (3) the impact of the Covenants is mediated by the domestic political culture, as exemplified by the regional chapters on Asia and the Middle East; and, (4) strong institutions and political support reinforce domestic human rights law. Part 3 concludes the volume by examining some key challenges that the Covenants will have to face. Such challenges include the following: the widening gap between legal remedies and the human rights-related problems generated by climate change; the impact of financial crises on human rights; and the institutional reform of the current treaty body system vis-à-vis the possibility of a 'world court of human rights'. In sum, this volume provides a comprehensive and empirically rich overview of the existing legal scholarship on the Human Rights Covenants.

In comparative terms, the two volumes address a broader puzzle that concerns the effectiveness of international institutions, particularly those pertaining to international human rights and humanitarian law instruments. Are they effective? Are they legitimate? From whose perspective are they legitimate and effective? How and under which conditions are they legitimate and effective?

The first volume on the Geneva Conventions provides a nuanced assessment of the effectiveness and legitimacy of the 'laws of war', and it does not shy away from offering the theoretical argument that such laws generate a moral framework in the conduct of war and legitimize state identities through the ideational formation of a 'civilized state'. This volume is clear in articulating its analytic and methodological limitations, but it nevertheless provides various insightful hypotheses upon which the effectiveness and legitimacy of the Geneva Conventions could be tested. The volume is fully embedded in the rich theoretical International Relations literature concerning the effectiveness of international institutions and law, and its core arguments on state identity and discursive moral frameworks (as key areas of influences of the Conventions) are well situated in the broader scholarly and policy debates on global governance.

The second volume, on the other hand, capitalized instead on the wide temporal and substantive scope of its empirical examination of the ICESCR and ICCPR without offering broad theoretical arguments that could be tested in several, if not, in all its chapters. Social scientists may find the second volume a good overview of the latest public international law scholarship on the Human Rights Covenants, but may find the theoretical and methodological foundations of its implicitly formulated causal hypotheses quite inadequate. Perhaps this is why it is important that collaborative research endeavors that tackle big societal questions — such as the effectiveness of the international human rights regime—are likely to gain more analytic leverage when a multidisciplinary approach is embraced.

Amidst the emergence of authoritarian populist politics, the two volumes inspire researchers and practitioners to reflect deeply on other several questions: How do the various institutions and actors that constitute the current international human rights treaty body system respond to the challenges posed by illiberal and authoritarian leaders? Does such a system require more reforms or even a radical transformation, especially if many of the problems that directly impact human rights (e.g. climate change and financial crisis as suggested by the second volume under review here) are caused by global systemic factors? If so, then how and under which conditions could radical transformation take place? How can the international human rights regime empower marginalized groups in ways that provide them spaces for political mobilization in the halls of power?

In closing, these two volumes contribute to a better understanding of how and under which plausible conditions do international human rights and humanitarian law instruments actually work. In the absence of a global sovereign state, with institutionalized enforcement mechanisms that, arguably, could be deployed quite effectively and uniformly in almost all parts of the world, it is unlikely that further legal codification of human rights norms alone will generate substantial improvement in compliance at the domestic level. Further reforms of the international human rights treaty body system may also consider how the challenges posed by global-systemic factors (e.g. global political economy and unfettered capitalism) could be addressed in a way that would contribute to a world order that best protects the dignity of all human individuals.

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