Book Notes

Waging War, Making Peace: Reparations and Human Rights. Eds. Barbara Rose Johnston & Susan Slymovics. Walnut Creek, CA: Left Coast Press, Inc., 2009. Pp. 272. $27.95.

Waging War, Making Peace is a collection of essays that examines, through anthropological case studies, the necessity and efficacy of reparations in post-conflict and transitional societies. The editors, as well as many of the individual authors, distinguish anthropology's focus on individuals and groups from the traditional legal focus on state responsibility. Through the examination of case studies in Nicaragua, Peru, Morocco, the United States, Diego Garcia, Belize, Guatemala, Cyprus, and Israel-Palestine, the editors make three crucial points: reparations "must be construed more broadly" to include offerings other than monetary compensation and to include group, as well as individual, harms; the victims-survivors themselves must be intimately involved as individuals and communities in determining appropriate reparations; and anthropology as a field, along with other social science disciplines, has much to offer the legal human rights world in designing programs that effect long-term peace.

While the overall message of the collection is strong, the selection of individual essays is uneven. First, the case studies are slanted towards the Americas. While Latin America has been at the forefront of transitional justice initiatives and deserves considerable study, the collection is sorely lacking an essay on reparations in sub-Saharan Africa, particularly the long fight for reparations in post-apartheid South Africa. Second, several of the essays seem ill-placed in this book. For example, Di Bella's piece on U.S. compensation programs for both family members of murder victims and individuals wrongfully imprisoned, while insightful on the symbolic and financial meanings of compensation, fits strangely into a book titled *Waging War, Making Peace* that is dominated by examples of the most severe human rights abuses. Finally, several of the essays seem to lose sight of the primary questions posed by the book: how can reparations be used to promote long-term peace, and how does anthropology contribute to that understanding? Grandia's essay on the Maya community in Belize, for example, is more of an analysis of a traditional Mayan farming technique and a description of a courtroom drama—complete with a long reproduction of her own affidavit—than a reflection on how to effectively design reparations.

Although some essays seem misplaced, others are well chosen and offer valuable insights into reformulating the concept of reparations in order to better address individual and community needs. Phillips' essay notes that both the Nicaraguan and U.S. governments—the states most responsible for the Contra War that was marked by severe human rights abuses—failed to provide reparations to the many Nicaraguan victims-survivors. However, in their stead, ordinary U.S. citizens implemented "people-to-people initiatives" that, among other things, fought to change American policy,

established development projects in Nicaragua, and provided material support to Nicaraguan communities.

Such initiatives seem far outside the traditional conception of reparations (as the responsible actor, the state, is not compensating specific, injured parties for its harm), but challenging this traditional understanding of reparations is ultimately at the heart of *Waging War, Making Peace*. Rather than focusing on reparations as a payment made by the abusive state (or quasi-state, like an organized rebel group), "emergent form[s] of reparation" like people-to-people initiatives focus simply on reaching the individual and community victims. Moreover, though not stated explicitly by Phillips, it seems valid, especially in a democratic state like the United States, to conceptualize responsibility as applying to the broader citizenry that elected the abusive government. When a government fails to offer reparations for its grave human rights violations, there may be a moral obligation upon the wider population to fill the void through people-to-people initiatives.

What ultimately provides for the compilation's success, however, is a terrific concluding chapter by Renteln. She weaves together the occasionally rough collection of essays into a strong, coherent set of prescriptions for designing reparation programs. Most importantly, she stresses the need to involve the victims-survivors, both at the individual and community level, to craft reparations that are truly needed and desired by the appropriate recipients. This will, in most cases, include non-monetary compensation such as a public apology and the improvement of community services like schools and hospitals. The crucial step in each case, however, is community consultation. This point is incredibly important and indeed should provide the basis for post-conflict initiatives. While there is a duty to provide reparations to individuals and communities who have suffered during conflicts and abusive regimes, there is no one-size-fits-all approach that will halt cycles of violence and guarantee long-term peace; rather, success is achieved through active engagement with the affected communities.

Waging War, Making Peace concludes by stressing that anthropology, along with other social science disciplines, offers something unique to human rights and peacemaking. Many of the book's writers construct the field of anthropology as a foil to legal activism, demonstrating a perception that lawyers too often overshadow the ideas and contributions of other disciplines in human rights advocacy. The essays stress that anthropologists cannot ignore the legal side of human rights work, while they perceive that the law and legal advocates ignore the work of social scientists. Though perhaps overstated in the book, it is true that lawyers and legal frameworks disproportionately impact the field of human rights. While effective in many situations, human rights lawyers should not be so wedded to their viewpoints that they fail to understand or accept alternatives. Although the human rights movement is significantly stronger thanks to the contributions received from diverse academic fields, an awareness of different con-

ceptualizations of problems and solutions is crucial in avoiding internal tension, repetition, and unproductive competition. Renteln rightly proposes that judges and human rights lawyers should be exposed to "new forms of knowledge" from the social sciences.

While *Waging War, Making Peace* itself may not be required reading for the legal community, the editors are absolutely correct that human rights lawyers need to challenge their own assumptions, work closely with those in other disciplines, and learn to conceptualize issues in untraditional, legal ways, including through anthropology.

—Matthew Wells

Measuring Human Rights and Democratic Governance: Experiences and Lessons from Metagora. Edited by Claire Naval, Sylvie Walter, and Raul Suarez de Miguel. Paris: OECD Publishing, 2008. Pp. 373. $115, paperback. Available for free as .pdf E-Book from oecdbookshop.org.

Measuring Human Rights is a reasonably well-organized collection of essays that illustrate and advocate the use of survey research and formal statistics in promoting human rights. At times it reads like a technical manual for practitioners in the field, at other times it reads like an airy philosophical treatise, and sometimes the text takes a backseat to a surprisingly effective set of two-color charts and diagrams.

The core of the book, Part I, presents the data collected from *Metagora*, a five-year project sponsored by the OECD that was completed in August 2008. The project's goal was to "enhance evidence-based assessment and monitoring of human rights" by bringing together a broad spectrum of human rights groups from the Global South, conducting a series of surveys in seven different countries, and critically discussing the progress of these surveys so as to learn from the experience.

The results of these surveys are unlikely to surprise anyone who is familiar with both economic reasoning and recent world history, but the data used to support them are uncommonly strong. Many survey questions were administered in person by highly trained staff who were fluent in native dialects and who traveled into rural areas, even approaching people in their individual huts. The design of the surveys shows careful attention to issues of validity and representativeness and the questions are framed so as allow researchers to put information about local concerns into its global context.

The biggest weakness of the surveys is that they make no effort to account for biases caused by a difference in opinion between those people who were both able and willing to be interviewed and those who were not. Al-

though most of the surveys featured systematic 'replacement' tables allowing interviewers to select a target of the same ethnicity as a person who was unavailable for questioning, it is not apparent that these replacement tables make any effort to control for age, gender, income, education, or occupation. Since the authors also fail to furnish us with confidence intervals or other measurements of error, it is rather difficult to assess what effect a refusal rate of, say, 33%, might have on the reliability of the final results.

Another issue is that unlike most works on comparative politics, which seek to compare data on a particular issue (e.g. land ownership) across many countries, the *Metagora* project focused on a different issue in each of the seven countries it surveyed. It is therefore difficult to measure the extent to which *Metagora* has succeeded in improving the standard of measurement used by human rights activists. In fact, it is not clear that the authors of *Measuring Human Rights* had any interest in testing their 'thesis' that conducting and discussing surveys would lead to an improvement in the way future surveys would be conducted.

Instead, the basic argument of Part II, which purports to evaluate the success of *Metagora*, is simply that researchers *can* conduct human rights surveys in a meaningful way, and that these surveys offer numerous benefits. For example, in responding to claims that national statistical bureaus are often either too incompetent or too biased to conduct real scientific research, the authors simply extol the professional virtues of the typical third-world statistician, and express their hope that allowing national statistical offices to participate in human rights work will cause those offices to be perceived as less biased.

At times, even this limited level of responsiveness disappears. Chapter 11, "Candidate Indicators for Monitoring the Right to Education," contains little more than a list of criteria that might be useful for evaluating whether people are getting an adequate level of education. The chapter does not so much as mention the criteria that were actually used in *Metagora*, let alone explain why or how the new criteria might be more useful for future surveys. Considering that Chapter 7, "The Right to Education in Palestine," is also almost entirely focused on developing a list of survey questions that would measure local access to education, one begins to wonder whether the respective authors had any kind of access to each other's essays before the book was published.

The authors appear to be a fairly diverse and well-connected group of people; the acknowledgements at the front of each chapter thank the presidents of various agencies and NGOs for lending their assistance. Still, a line or two of biographical information would have been nice for people who want to follow up on the research of a particular author.

Ultimately, *Measuring Human Rights* will be of most use to people who are actually planning a set of human rights surveys and want to see how other thoughtful people have conducted such surveys in the recent past. It

provides enough information for practitioners to get a sense of their options, and to model their efforts after what were, all things considered, a fairly successful set of experiments. Any deficiencies in the arrangement of chapters or the vividness of the prose are more than made up for by the excellent page layout and the clear, easy-to-read system of headings and subheadings, which allow even a casual reader to quickly find the information that most interests her. *Measuring Human Rights* does not, however, offer many thoughts of particular academic or legal interest, but may serve as a corrective to purists who favor the exclusive use of non-statistical research.

—Jason Green-Lowe

Social Rights Jurisprudence: Emerging Trends in International and Comparative Law. Edited by Malcolm Langford. New York: Cambridge University Press, 1998. Pp. 687, $90.00, paper.

The protection of social, economic, and cultural rights has become an increasingly important issue to human rights lawyers. There is a burgeoning body of social rights jurisprudence at the national level in several countries, with the most notable developments early on coming from the South African Constitutional Court and the Indian Supreme Court. *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law* attempts to catalogue and explore the implications of nearly two thousand judicial and quasi-judicial decisions in a variety of national and international jurisdictions. The amount of material it attempts to cover (in terms of sheer number of cases, jurisdictions, and issues) is perhaps both its biggest strength and its biggest weakness.

The book consists of essays by individual authors and is divided into five parts: Overview, Select National Jurisdictions, Regional Procedures and Jurisprudence, International Human Rights Procedures and Jurisprudence, and Special Topics. One of its distinguishing features as compared to other similar works is that it tackles both comparative and international law. The experiences of the sixteen national jurisdictions that are described have a comparative emphasis while the subsequent parts have a more international law focus. This allows the reader to see how international and national developments have interacted to build support for making social rights justiciable.

In his introduction, Langford emphasizes the role that practice can have on theory, which is one of the unifying themes of the book. Langford notes that as a result of practical experience, the theoretical debate on the jus-

ticiability of social rights has shifted from whether these rights are justiciable at all to the appropriate degree of justiciability. To illustrate, he describes a dramatic shift in opinion by Cass Sunstein, at one time a vocal critic of social rights' place in national constitutions. Just seven years later, after the landmark and nuanced *Grootboom* decision in South Africa, Sunstein observed, "The approach of the Constitutional Court stands as a powerful rejoinder to those who have contended that socio-economic rights do not belong in a constitution."

The contributors also challenge several misconceptions, particularly the traditional dichotomy between social and economic rights on the one hand and political and civil rights on the other. They demonstrate that these two categories of rights do not map neatly onto the distinction between positive and negative obligations, and that in any case, many adjudicative bodies see their role as reviewing policy rather than leading implementation of policy. Several other interesting issues are also addressed in the book, including, whether there should be a right to civil legal aid in social rights litigation ("the right 'conservative of all other rights'") and the horizontal application of rights (i.e., private actors bringing cases against private actors).

Overall, *Social Rights Jurisprudence* can be seen as an attempt to derive theory from a field with a wide diversity of practice. The use of different authors familiar with the various jurisdictions gives this effort authenticity and a sense of detached objectivity. While it is possible that the lack of generalizations made and conclusions drawn in the work will leave the reader feeling unsatisfied, the editor should be commended for his restraint in letting the experiences of various jurisdictions speak for themselves. *Social Rights Jurisprudence* could be a useful tool or reference guide to public interest lawyers seeking information on comparative experiences and international procedures. It is also an impressive work of scholarship on an issue that still has not received the amount of scholarly attention that its growing significance merits.

—Rebecca Kahane