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Book Review: A Practitioner's Reflections in Response to 'Human Rights Law and the Marginalized Other'

Title of the Book: Human Rights Law and the Marginalized Other
Author: William Paul Simmons
Publisher: Cambridge University Press
Publication year: 2011
ISBN: 9781107010079
Total Pages: 251
Reviewed by: Petra Gimbad¹

Introduction

This book review will have little theoretical grounds on political philosophy. Therefore, given my ability to critique Simmons' interpretations of various philosophers is limited, I write this review from the perspective of a human rights practitioner seeking a reader to understand how contemporary philosophy may be used to interpret the practices of human rights in contemporary world .

This review will focus on the questions that were raised in the course of reading the book. With reference to thinkers in particular, I have chosen to mention a little more on Hanna Arendt and Spivak, whom I tried to acquaint myself with, when I had the time in the past. I fully admit that much of my analysis may lack and hope that readers will not be prevented from discovering these philosophers on their own terms.

Background of the Review

Disclosure: The reviewer is a human rights practitioner, previously worked directly with marginalized communities. Much of intellectual frustration during

¹ The reviewer is a youth officer with an international human rights organization. Prior to her current post, she worked with child survivors of domestic abuse, disabled youth, homeless youth, refugees, sex workers, sexually abused children and women and youth drug users.

this period of work lay with the lack of time that is needed to simply read and breathe: as a social worker who did extensive community visits and outreach round-the-clock, it was difficult to grow intellectually in a manner that could only be facilitated by academic reading. By this, I speak from the perspective of someone who believes that effective human rights work must take place through the synthesis of grassroots work and critical reflection.

Despite the availability of articles in the international media on issues relevant to writer's work context – particularly on homeless youth and refugee experiences – the inability to read academic work proved unsatisfying. Lack of sufficient time and energy took away the ability to concentrate, as there were always urgent and life-pressing tasks to respond to at hand. Often, I expressed my concern to my work partner that we were not growing fast enough in relation to our work: although we had the work experiences, we did not have the macro perspective, the theoretical or structural knowledge or the regional understanding of how the very same work may take place differently elsewhere.

I missed immersing myself in academic reading, in order to reflect deeply on what my work meant and how my colleagues and I could be pushing boundaries further. More intensely, I missed the 'click' of discovering a piece of work that contextualized everything that I experienced – in a manner that made it all make sense. This 'click' would affirm everything that I felt in my heart, by giving my experiences a language that could now translate into clearer explanations, to facilitate advocacy with laypersons or policymakers. It allowed what I always felt with the heart but could never explain with the head, to finally take flight.

Deconstructing Human Rights

Accurately, Simmons points out that 'human rights law is struggling to maintain its newly gained prominence in legal, academic, and policy circles against the onslaughts of interminable wars on terror and their concomitant ideologies of *realpolitik*'. (Simmons, 1) Therefore, what he attempts, deconstruction of human rights law, is to threaten human rights and the very legal principles that establishes such rights, in a manner that is potentially detrimental to the field's credibility.

In practice, much of the provision of human rights takes place through subverting the system. Care and service providers can turn a blind eye to policies excluding persons falling outside of their jurisdiction, when faced with immediate need. I recall a conversation with a refugee expert experienced in aid provision, who said 'When you have hundreds of thousands of people

arriving and they all need food and are starving, you feed them first and do not ask whether they are a refugee till later.’

The idea of rebuilding a system, therefore, attracts skepticism, for many reasons, but also because many service providers and rights advocates have learnt to work around the systems that are currently in place. Documenting such practices is unlikely. Rebuilding systems not only raises the question as to whether to replace with better systems, but also if the ‘better’ system proves imperfect, how much more work will practitioners have to engage in to learn to subvert its processes again, for the good of the Marginalized Other?

The Marginalized Other

Interestingly, Simmons begins his examination of how the Marginalized Other is cauterized through Hannah Arendt’s Little Rock essay. The implications arising from how ‘easily’ Arendt draws on her Jewish identity to relate to the oppression of African Americans are appalling. In relation to the structural violence experienced by African American children who attend school despite known lynching occurring in the country at the time, Simmons presents that Arendt’s misinterpretation is caused by her superimposition of identities, ability to maintain an ‘objective distance’ and her ‘lack of on-the-ground perspective is not grounds for recusal; instead, it seems to enhance her qualifications as a judge’. (Simmons, 21)

I know little of Arendt’s theory of judgment and realize that the private, social and political typology (Simmons, 27), if applied, can be useful lenses to analyse societal violence. Despite the initial shock caused by her misinterpretation – one must face that her response is an all too common societal response that occurs in the name of kindness. How often have we uncritically tried to draw on our own experiences to relate to another person’s suffering? Troublingly, how frequently have we outsourced our thinking or surrendered our agency to ‘experts’ despite their lack of on-the-ground perspective, both from within and outside of the courts?

Personally, I found Simmons’ usage of Gayatri Chakravorty Spivak’s subaltern theory to be useful in later chapters to understand and even contextualize the discussion of the Aristotle’s man in a state of *aneu logou* (without speech) in the book. Aristotle’s *aneu logou* is exciting for practitioners because it implies that if a person is given speech, he or she is then able to advocate for oneself or one’s community.

This is the very reason why many human rights workers attempt to locate spokespersons from target communities for advocacy purposes: firstly, we believe that their ability to draw on their experiences as direct stakeholders will allow them to speak and advocate for themselves more effectively; secondly, we remove the element of ‘speaking for’ the person involved, which may have the effect of drowning out the true and urgent concerns of the very individuals and communities who know their contexts best.

Spivak’s construction of the subaltern throws a spanner in the works. To my understanding, a subaltern person is a Marginalized Other who ‘cannot speak or be heard’. (Simmons, 139) What comes to mind is an indigenous person who may be given an ‘opportunity’ to speak to decision-makers as a matter of process, when in fact the decision-makers have no intention to or are simply unable to fully comprehend what the person has to say. Another example would be a group of refugees who are interviewed by the press, but whose voices are drowned out by politicians, academic and humanitarian ‘experts’ and the public at large who fear their presence in the community. These are persons who are given a platform to speak and yet still hold no ability whatsoever to be heard. The fact that such persons can and do exist is frightening.

With reference to personal experience, Spivak’s subaltern theory hits hard given my previous role as part-time facilitator for the press seeking interviews with marginalized communities. A child from a red-light district area may be ‘given’ a space to have his or her say, yet the interviewer is unable to move beyond the child’s identity as the daughter of a sex worker or as a minor drug user, and see that the child is made up of hopes, dreams and the very things that makes our human lives similar and ordinary. The example of how refugees may be provided with chances to communicate ‘what they want to say’ to the press is also based on experience – in the end, what refugees themselves and reporters regard as central issues differ because reporters are often guided by what is deemed to be newsworthy.

So ingrained is the perception of what it means to be an expert – it is painful to be told by clients that they are not experts, that rather it is the academics, humanitarian organizations and welfare officers who carry the expertise. However, how can one ever fully comprehend what they have experienced without having walked in their shoes?

This creates a conflict for advocates (and maybe even journalists). What then is the role of advocates? On a day-to-day basis, both advocates and client stakeholders (e.g. refugees seeking medical treatment) experience how it is

easier for clients to seek services and to be provided with one's rights, if there is an advocate accompanying the client. Problematically, this creates dependence on advocates who lack the capacity to be present for clients at every instance. Additionally, this strengthens a kind of hegemony which is defined by the service provider (i.e. the hospital) that decides whose voice is valuable (i.e. the advocate who explains the client-patient's symptoms, over the explanations of the client-patient). In the case of refugee clients, nationals comprise a hegemony whose words carry more weight than even the deepest truth of what a refugee client wishes to convey. Similarly, ex-clients who were sex workers faced the same stigma where what my colleagues and I said was regarded as more important over their own voices.

In addition, the fact that a subaltern person may be provided a space to speak without hope of being heard was troubling given my past as a social worker and student. How can I trust my perceptions of what a client tells me or what I observe of a community, even if I am listening in earnest? What value do my policy recommendations have? How accurate were my analyses of theory in terms of how they may apply or be implemented when I wrote academic papers? My ability to speak may have the effect of drowning out marginalized voices.

These are difficult questions with few answers. Yet, from where I stand, I would argue that even if the questions do not provide answers, the insights shed by such critical self-examinations are absolutely necessary and way important for deconstruction to be set aside. At the very least, we can move beyond an analysis of 'lessons learned' when we fail our clients, to examine what went wrong more critically, or anticipate severe gaps when we apply systems thinking of planned development projects which may do more harm to the community than good.

Prior to the Spivak discussion, Simmons examines theology to explore possibilities to construct the Marginalized Other in a manner that strengthens one's right claims. Because of my unfamiliarity with Marion, Habermas and Levinas, I will not analyse Simmons' interpretations of how theories of transcendence or liberation may be applied to those who suffer, in a manner that is relevant to human rights. However, I found his discussion fascinating, creative and inspiring, given the impact of theological discourse on the public practice of human rights.

Currently, I am exploring how interpretations of the Quran can be compared to that of the Bible Gospels to create spaces for acceptance of drug users, sex workers, street-youth and transgender. Within the Christian framework, it is identification

with marginalized individuals, because Jesus Christ was persecuted and suffered himself, that creates possibility for Christian practitioners to push beyond ‘tolerance’ of the Other. In a community project where a colleague introduced *imams* to transwomen in a red light district – he reported that the two groups were able to dialogue and build friendships, because the ‘Other’ aspect had diminished, and this intolerance paved the way for ‘acceptance’.

Conclusion

Simmons deals with a variety of philosophers and unfortunately, much of what he analyses escapes my understanding. However, there is much in his book, including riveting court anecdotes to drive his points home, which are sufficiently engaging and clear enough to the interested reader with some grasp of academic terminology.

The book is a worthy read; one is hard-pressed to think of a colleague who would not be interested in some aspect of his book. I hope that this effort to introduce the aspect of the Marginalized Other to human rights law receives the consideration that the very communities, whom he writes on, need.
