

DOWNLOAD PDF DEMOCRACY AND THE PROMOTION AND PROTECTION OF SOCIO-ECONOMIC RIGHTS RICHARD BURCHILL

Chapter 1 : Project MUSE - Human Rights and Diversity

This chapter examines the relationship between democracy and economic, social, and cultural rights. It discusses the problems that have arisen in the international legal discourse due to the minimalist understanding of democracy as equating to a limited range of civil and political rights.

No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, without the prior permission in writing of Oxford University Press, or as expressly permitted by law, or under terms agreed with the appropriate reprographics rights organization. Includes bibliographical references and index. Clearly, as everything that follows attests, he has inspired all the contributors to this volume, and many, many more besides. He has been valued as a teacher and appreciated for his long years of unstinting service to the University of Nottingham, both as an academic and as an administrator. That respect stems from a combination of several things: He was already in the sixties a leading expert on the European Social Charter, and from 1975 to 1985 was a member of the Strasbourg Committee of Independent Experts on the European Social Charter. He wrote much, and spoke at conferences on this topic in many countries, including the UK, the Netherlands, Slovakia, Russia, Estonia, and the former Yugoslavia. He readily lent his experience to the building of human rights infrastructure in such places as China, Cuba, India, Indonesia, Italy, Latvia, Mongolia, Ukraine, and Iraq. He has advised the Council of Europe on human rights matters relating to Slovenia, Albania, Georgia, and elsewhere. Along with these practical contributions, there has been a continuous stream of high quality books and articles. His book *Cases and Materials on International Law* has been very widely relied on. He edited journals and encyclopaedias, and has written much, much more than can here be mentioned. He has given so much to our understanding of economic and social rights, with a minimum of fanfare and much self-effacement. This is a man for whom the subject of human rights has been everything and self-promotion nothing. This is the stuff of respect. There are some excellent studies on economic, social, and cultural rights; but none yet does what is attempted here—a combination of survey of the conceptual debates on such rights, a recounting of the complicated history of the drafting and coming into effect of the Covenant, and an analysis of where things now stand. This book provides all that a reader can want in understanding the history and politics of economic, social, and cultural rights. It is also fully up to date in addressing the work of the Committee under the ICESCR Covenant, as well as drawing on the now considerable literature on the matter. The decision to bring all of this together under three main themes—structure and scope of obligations under the ICESCR, regional and comparative understandings of ESC rights, and application of these rights, is in my view perceptive. Further, it is successfully brought to fruition by writers who are true scholars in this field and whose expertise is incontestable. This volume provides the reader with a carefully thought out deployment of the law-in-context on economic, social, and cultural rights. Contributors and editors have produced a balanced and scholarly contribution to understanding. And in so doing they have honoured one who has dedicated his life to the law of human rights.

Forty Years of Development 3 Mashood A. Human Rights-Based Approaches to Development: Towards Accountability 45 Patrick Twomey 4. The Violence of Dispossession: Violations of Economic, Social, and Cultural Rights: Churchill and Urfan Khaliq Towards an Analytical Framework Jennifer Tooze Trade to Live or Live to Trade: He is an expert in international human rights and Islamic law. He teaches and researches in international and comparative human rights law. His publications include *International Conflict and Security Law*: Before that he had been a member of staff at Cardiff University for many years. His primary teaching and research interests lie in the fields of Public International Law especially relating to the sea, the environment, and human rights and EU Law. She obtained an LLM degree in International Law at Nottingham University and thereafter was privileged to conduct research in the area of international law of human rights under Professor David J Harris. In 2003, he was appointed UN Special Rapporteur on the right to the highest attainable standard of health. He is currently completing a book for Cambridge University

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Press on the legal issues that an ethical dimension to foreign policy raises. He is co-author of one of the leading texts in international law; *Cases and Materials on International Law* 4th edn, OUP, , as well as having published widely on issues of international law and on international human rights law in particular. He has also provided advice to governments, international organizations, non-governmental organizations, and individuals on a range of international legal issues. He is a specialist in Human Rights Law. He has authored four books: Gillian MacNaughton is a human rights lawyer. She is currently reading for the DPhil in Law at the University of Oxford where her research focuses on equality and social rights. Previously, she worked as a senior research officer to the UN Special Rapporteur on the right to the highest attainable standard of health. He has published extensively, including on the role of human rights treaty bodies and on the law and practice of human rights field operations. He is a member of the boards of and otherwise advises numerous international human rights organizations. He has published several articles in leading academic journals, and acted as a consultant to governments, intergovernmental organizations, and non-governmental organizations. She completed her PhD in the field of economic and social rights at the School of Law, University of Nottingham, under the supervision of Professor David J Harris and has since undertaken human rights and development work for several organizations. She was called to the Bar in He has written on several aspects of international law and human rights. He is author of numerous articles and books including *Keeping the Peace*:

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Chapter 2 : Economic democracy - Wikipedia

The recommendations in the Report were substantial for the importance given to the promotion and protection of democracy and human rights in the context of preserving the social and cultural characteristics of the region based on the idea of a people-orientated approach to regional integration and governance.

Advanced Search The debate among international lawyers on the significance of democracy is a recent occurrence. The events of 1989 led to the embrace of democracy in many countries, primarily in Eastern Europe. The beginning of the legal debate over democracy can thus be traced to that time. Over the past two decades many books and articles have been written on the subject of democracy, primarily from a political, philosophical or historical perspective. In comparison, legal writings have been scarce. Its stated aim is to bring together the core articles written on the developing body of international law regarding democracy. It can serve both as an introduction and as a comprehensive overview of the legal issues and arguments involved. The volume contains 19 essays, divided into five parts: This review does not intend to comment on the content but rather to evaluate the selection of articles, bearing in mind the purposes of the The Library of Essays in International Law series. In , Gregory H. Fox and Brad R. Roth published *Democratic Governance and International Law*, 1 which made a very significant contribution to the literature on the international law of democracy. Both address the same question, namely how a democracy should react to the presence of anti-democratic actors in its midst. Fox and Nolte examine the legal relationship between a state and a non-democratic political party. They conclude that states are under no legal obligation to tolerate anti-democratic actors and may, according to a set of well-defined procedures, act to exclude them from the political process. The question whether a state is obliged to ban non-democratic political parties as a result of the international human rights obligations they have assumed is discussed by Burchill. Burchill rightly decided to include these two articles whereas Fox and Roth did not. Another example is the fact that Burchill correctly asserts that the greatest weakness of the majority of approaches to democracy as an international legal principle is the belief in a limited view of democracy as consisting essentially of the need for free elections. Finally, the editor chose not to devote a section of the book to the controversial debate over whether a lack of democracy can justify humanitarian intervention conducted individually or collectively with or without Security Council authorization. The reader might not find the structure of the book and the ordering of the articles to be entirely logical. It might have been preferable to start off with a section on the meaning of democracy in order to try to answer the question: The second section could then have focused on a technical analysis of the existence and elements of such a right. The general tone of the book is that there exists a right to democracy, but that we should expand the scope of the term beyond the need for free and fair elections. Burchill believes that democracy is about debate and solving differences through non-violent means, about pluralism, open-mindedness and tolerance. Roth eds , *Democratic Governance and International Law*

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Chapter 3 : Economic, Social, and Cultural Rights in Action - Oxford Scholarship

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That is, modern society does not earn enough income to purchase its output. For example, geographer David Harvey claims, "Workers spending their wages is one source of effective demand, but the total wage bill is always less than the total capital in circulation otherwise there would be no profit, so the purchase of wage goods that sustain daily life even with a suburban lifestyle is never sufficient for the profitable sale of the total output". Treasury Department, Richard C. Cook and other critics claim that command economies are predominate, citing state capitalism and imperialism as related. As common resources are monopolized by imperial centers of wealth and power, conditions of scarcity are imposed artificially upon the majority, resulting in large-scale socio-economic imbalance. Land, labor and capital are generally considered the essential factors in producing wealth. Land includes all natural opportunities and forces. Labor includes all human exertion. Capital includes the portion of wealth devoted to producing more wealth. While the income of any individual might include proceeds from any combination of these three sources—land, labor and capital are generally considered mutually exclusive factors in economic models of the production and distribution of wealth. According to Henry George: The laws and customs that govern the relationships among these entities constitute the economic structure of a given society. Alternately, David Schweickart asserts in his book, *After Capitalism: Individual enterprises compete with one another in providing goods and services to consumers, each enterprise trying to make a profit. This competition is the primary determinant of prices. Organisations typically endeavor to 1 minimize the cost of production; 2 increase sales; in order to 3 maximize profits. But, according to David Schweickart, if "those who produce the goods and services of society are paid less than their productive contribution", then as consumers they cannot buy all the goods produced, and investor confidence tends to decline, triggering declines in production and employment. Such economic instability stems from a central contradiction: Wages are both a cost of production and an essential source of effective demand needs or desires backed with purchasing power, [6] resulting in deficiency of effective demand along with a growing interest in economic democracy. In chapter 3 of his book, "Community Organizing: Theory and Practice", Douglas P. Biklen discusses a variety of perspectives on "The Making of Social Problems". One of those views suggests that "writers and organizers who define social problems in terms of social and economic democracy see problems not as the experiences of poor people, but as the relationship of poverty to wealth and exploitation". Biklen states that according to this viewpoint: The problem is not one of gaps or cracks in an otherwise fine system but of a system which perpetuates prejudicial views concerning race, sex, age, and disability. The problem is not one of incompetence but of barriers to education, jobs, and power. Accordingly, as long as there is a deep gulf between social classes, both in terms of wealth, power, and outlook, traditional social programs will act merely as palliatives to oppression and not as a way of ending large scale human misery. This perspective is, above all, eclectic. It is anti-racist, but it is not only a theory of race equality. It favors democratic distribution of power but is also an economic theory. It can be called a social and economic democracy perspective. A business that wants to expand production needs to command the labor of others, and money is the default mechanism for exercising this authority. If private savings are loaned out to entrepreneurs who use them to buy raw materials and hire workers, then aggregate demand is not reduced. In this view, unemployment is not an aberration, indicating any sort of systemic malfunction. Rather, unemployment is a necessary structural feature of capitalism, intended to discipline the workforce. If unemployment is too low, workers make wage demands that either cut into profits to an extent that jeopardizes future investment, or are passed on to consumers, thus generating inflationary instability. Schweickart suggested, "Capitalism cannot be a full-employment economy, except in the very short term. For unemployment is the "invisible hand" "carrying a stick" that keeps the workforce in line. Moreover, the*

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personal decision to save rather than consume decreases aggregate demand, increases the likelihood of unemployment, and exacerbates the tendency toward economic stagnation. Since wealthy people tend to save more than poor people, the propensity of an economy to slump because of excess saving becomes ever more acute as a society becomes more affluent. The theme of profit superseding individual well-being flows through this antimonopoly view of social problems. On the one hand, poor and middle income people find their lives deformed by their meager or nonexistent ability to pay for goods and services. Wealthy people, on the other hand, find that their relative position, in terms of wealth and power, grows with their ability to maintain the gulf between social classes. Thus monopolies or concentrated wealth plays a large part in creating social problems. Indeed, one might say, monopolies and policies which promote the former or concentrations of wealth are the problem. For example, Richard C. Cook asserts that conditions of scarcity are artificially maintained by corporate structures that confine abundance to an exclusively entitled minority. In this view, socio-economic imbalance stems not from a failure to manage limited resources in a world of scarcity, but from mismanagement of virtually unlimited abundance and prosperity. Money power is not only the most governing and influential, but it is also the most unjust and deceitful of all earthly powers. It entails upon millions excessive toil, poverty and want, while it keeps them ignorant of the cause of their sufferings; for, with their tacit consent, it silently transfers a large share of their earnings into the hands of others, who have never lifted a finger to perform any productive labor. Generally considered monopoly power, some view this "public wrong" as the most influential factor in artificial scarcity. For example, Henry George further suggested: There is in reality no conflict between labor and capital; the true conflict is between labor and monopoly. Abolish the monopoly that forbids men to employ themselves and capital could not possibly oppress labor. So far as invention is concerned, a price is put on them not because they are scarce but in order to make them scarce to those who want to use them. The difference between labor-value and monopoly-value raises goods prices, and is collected as "profit" by intermediaries who have contributed nothing to earn it. Labor does not earn enough to buy what enterprises produce. Cook maintains that the difference between earnings and prices is typically appropriated by industrial and banking centers of capital through monopoly control of finance and other market resources. Such exclusive entitlement tends to artificially impose conditions of economic scarcity upon the majority of the population. Due to the economic imbalance inherently imposed, such monopoly structures tend to be centrally dictated by law, and must be maintained by military force, trade agreements, or both. The theory that land is property subject to private ownership and control is the foundation of modern society. Carried to its logical conclusion, it means that some have the right to prevent others from living; for the right to own implies the right exclusively to occupy; and in fact laws of trespass are enacted wherever property in land is recognized. It follows that if the whole area of terra firma is owned by A, B and C, there will be no place for D, E, F and G to be born, or, born as trespassers, to exist. If you sought the accumulated wealth preliminary to launching new industry, "you had to turn to the class which had already monopolized the bulk of the means of production in England. The rich men alone could furnish you with those supplies". From this perspective, many considered the corporate model—"stock sold to strangers"—inherently prone to fraud. While numerous scandals historically support this dim view of corporate policy, small partnerships could not possibly compete with the aggregate capital generated by corporate economies of scale. The greatest advantage of corporations over any other business model is their ability to raise capital from strangers. Dahl suggests that agrarian economy and society in the early United States "underwent a revolutionary transformation into a new system of commercial and industrial capitalism that automatically generated vast inequalities of wealth, income, status, and power. However, "the modern business corporation evolved radically from its ancient roots into a form with little relation to the purpose as understood by historians of law. Most business corporations before developed in Great Britain, where they were established by royal charter, with the expectation of contributions to society. Incorporation was a privilege granted in return for service to the crown or the nation. MacLeod goes on to say: A corporation is considered by the law to exist as a legal person. In the Middle Ages it was called a "persona ficta". This is a

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very useful way of looking at a business corporation, because it suggests correctly that the corporate person has a certain personality. It has duties and responsibilities vested unto it by the legitimate government or society that fostered it. The corporate person receives great benefits from society and, in return, it must exercise great responsibilities. One of the most basic responsibilities is job creation, a fundamental need in any society. In the U.S., unlike average citizens, large corporations had large flows of money at their disposal. With this money they can hire lobbyists, donate copiously to politicians, and sway public opinion. But, despite Supreme Court rulings, the modern corporation is not a real person. Rather, the publicly traded stock corporation is what Barnes terms an "automaton", explicitly designed to maximize return to its owners. A corporation never sleeps or slows down. It externalizes as many costs as possible, and never reaches an upper limit of profitability, because no such limit has yet been established. As a result, corporations keep getting larger. In the U.S., sales of the Fortune 500 accounted for one-third of U.S. GDP. They commanded two-thirds. In other words, these few hundred corporations replaced smaller firms organized as partnerships or proprietorships. Corporations have established a homogeneous global playing field around which they can freely move raw materials, labor, capital, finished products, tax-paying obligations, and profits. Thus, corporate franchise has become a perpetual grant of sovereignty, including immortality, self-government, and limited liability. By the end of the twentieth century, corporate power—both economic and political—stretched worldwide. International agreements not only lowered tariffs but extended corporate property rights and reduced the ability of sovereign nations to regulate corporations. According to Rasmusen, income inequality in contemporary America increased as the relative share of income for corporations and the wealthiest one percent of households rose while income shares declined for the rest of the United States workforce. After rising steadily for three decades after World War II, the standard of living for most American workers has sharply declined between the mid-1970s to the present. While a hundred new billionaires were created since 1980, real weekly earnings for million workers are less in than in when Ronald Reagan took office". According to economist Richard D. Wolff, the 1980s brought an end to the labor shortage which had facilitated more than a century of rising average real wages in the United States.

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Chapter 4 : Democracy and the Promotion and Protection of Socio-Economic Rights - Oxford Scholarship

On 16 December, the United Nations adopted the International Covenant on Economic, Social and Cultural Rights. This book provides an analysis of many of the key issues, both in concept and in.

Direct Democracies[edit] A direct democracy or pure democracy is a type of democracy where the people govern directly. It requires wide participation of citizens in politics. A popular democracy is a type of direct democracy based on referendums and other devices of empowerment and concretization of popular will. An industrial democracy is an arrangement which involves workers making decisions, sharing responsibility and authority in the workplace see also workplace. A liberal democracy is a representative democracy with protection for individual liberty and property by rule of law. An illiberal democracy has weak or no limits on the power of the elected representatives to rule as they please. Types of representative democracy include: Electoral democracy " type of representative democracy based on election, on electoral vote, as modern occidental or liberal democracies. Dominant-party system " democratic party system where only one political party can realistically become the government, by itself or in a coalition government. Parliamentary democracy " democratic system of government where the executive branch of a parliamentary government is typically a cabinet, and headed by a prime minister who is considered the head of government. Westminster democracy " parliamentary system of government modeled after that of the United Kingdom system. Presidential democracy " democratic system of government where a head of government is also head of state and leads an executive branch that is separate from the legislative branch. Jacksonian democracy " a variant of presidential democracy popularized by U. President Andrew Jackson which promoted the strength of the executive branch and the Presidency at the expense of Congressional power. Soviet democracy or Council democracy " form of democracy where the workers of a locality elect recallable representatives into organs of power called soviets councils. The local soviets elect the members of regional soviets who go on to elect higher soviets. Totalitarian democracy " a system of government in which lawfully elected representatives maintain the integrity of a nation state whose citizens, while granted the right to vote, have little or no participation in the decision-making process of the government. A demarchy has people randomly selected from the citizenry through sortition to either act as general governmental representatives or to make decisions in specific areas of governance defense, environment, etc. A non-partisan democracy is system of representative government or organization such that universal and periodic elections by secret ballot take place without reference to political parties. An organic or authoritarian democracy is a democracy where the ruler holds a considerable amount of power, but their rule benefits the people. The term was first used by supporters of Bonapartism. A cellular democracy, developed by Georgist libertarian economist Fred E. Foldvary, uses a multi-level bottom-up structure based on either small neighborhood governmental districts or contractual communities. Types based on level of freedom[edit] A liberal democracy is a representative democracy with protection for individual liberty and property by rule of law. In contrast, a defensive democracy limits some rights and freedoms in order to protect the institutions of the democracy. Types based on ethnic influence[edit].

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Chapter 5 : Table of contents for Economic, social, and cultural rights in action

Democracy and the Promotion and Protection of Socio-Economic Rights Richard Burchill Trade to Live or Live to Trade: The World Trade Organization, Development and Poverty Sarah Joseph The Right to Development as Applied in National Law Jane Ansah

The latter is recommended since the idea of democracy in international law did not emerge ex nihilo. To be meaningful, it seems reasonable to conclude that the international law conception of democracy must maintain its family relationship with the idea of democracy that has emerged in political thought and practice over time—after all no agreed definition of democracy exists in international law. For researchers engaged in a critique of doctrine and practice from the perspective of democratic legitimacy, more in-depth reading will be required and reading of the original materials is essential. This article introduces researchers to the key writings in the English language on democracy in international law and relevant readings that inform the debates in international law in cognate disciplines. The principle of democracy is seen to have an influence in the functioning of international law and the practice of international relations and international governance: Nor is there any agreed understanding of the term in international law. Held is a good introduction to the idea of democracy in political theory. In terms of democracy and international law, few works deal systematically with the influence of democracy on international law doctrine and practice. Fox and Roth and Burchill are both excellent introductions to the subject. Crawford is a good example of how the question emerged on the agenda of international lawyers. Fox is the best statement of the actual international law on democracy. Democracy and International Law. Collection of the leading essays on democracy and international law from a number of perspectives mostly also available elsewhere. Oxford University Press, An essential starting point for anyone writing about democracy in international law. Democratic Governance and International Law. Cambridge University Press, Collection of the more important and interesting writings on democratic legitimacy mostly also available elsewhere. Useful and reflective introduction by the editors. Essentially a student text, but provides a useful overview and introduction to the various ideas of democracy.

Chapter 6 : SOCIO-ECONOMIC RIGHTS “ HURISA

economic, social, and cultural rights; but none yet does what is attempted here— Democracy and the Promotion and Protection of Socio-Economic Rights Richard Burchill Trade to.

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Chapter 8 : Economic, Social, and Cultural Rights in Action | Robert McCorquodale - www.nxgvision.com

The volume contains 19 essays, divided into five parts: Democracy and International Law, Definition(s) of Democracy in International Law, Democracy and the International System, International Institutions and the Promotion and Protection of Democracy, and Critical/Sceptical Voices on Democracy and International Law.

Chapter 9 : Types of democracy - Wikipedia

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