Western Idealism and the Pursuit of Global Justice

Susan Hinely
Department of History
Stony Brook University


1 In the most recent edition of the *Global Civil Society Yearbook*, a leading source of information and ideas about global issues since its inaugural edition in 2001, a broad range of scholars and activists examines the relationship between global civil society and contemporary systems of justice. *Global Civil Society 2011: Globality and the Absence of Justice* displays the signature feature of this invaluable series, which is a format that moves between theory and application and that fosters a global conversation between those who study transnational problems and those who confront these problems daily as community organizers, lawyers, health care workers, and other “global civil society actors.” Previous GCS Yearbook editions that have taken up themes such as poverty, technology, and communications have fruitfully sponsored such “academic/practitioner collaboration” and have served “to channel the intellectual enlightenment that arises out of practical engagement with global issues back into the mainstream of academic thinking” (6).

2 When the subject is justice, however, the project of integrating theory and method moves to a whole new level of challenge and gravity. Starting from the premise that the operative framework for justice and the rule of law is increasingly global rather than national, the GCS Yearbook 2011 has perforce taken on the fundamental project of classical political theory, that is, imagining and instituting a “just society,” transposing this age-old aspiration to a global level. The editors admit that the topic must be addressed “in the most general frame of a theory of society” (3), and a good number of the contributors find they must re-visit philosophical traditions ranging from Buddhism to the Stoics through the Enlightenment to postmodernism before they can begin to tackle the colossal project before them: to understand and engage with “the cosmopolitanisation of social justice claims” (6). Throughout the collection one finds “solutions” to the problem of global injustice that essentially restate the millennial quest for a political community that will provide order without compromising the autonomy of its members: Global justice requires “transnational groups of self-representation” that “neither give up their identity nor bargain their principles” but are “formalized” enough to be effective (94); “the nature of both the community’s identity and their sociocultural conditions” must define the institutions that bound them (113); the goal is to construct a “pluraliverse” embodying our plural world built on the dialectic ‘unity in diversity’” (143), a “locus of togetherness that links the plurality of particular communities” (147). Not surprisingly, these writers find it no easier to resolve the contradiction between order and freedom, or to mediate the universal and the particular, than did Aristotle or Rousseau before them, and some acknowledge that success will require no less than “an overhaul of the global political and economic system” (122).

3 Such a world historical mandate as a theoretical guide leaves quite a distance to be traveled before links can be forged with the “actors” in global civil society. In spite of its admirable ambition, the collection is marked by a general disconnect between the calls for “inter-normativity” (140) and a “hybridization of human rights norms” (135)
and the accounts of frustration, repression, and violence reported from the field. Perhaps this disconnect is precisely what one should expect when a community — here, a newly self-aware global one — becomes politicized and faces the inevitable question: "So what is to be done?" Though GCS Yearbook 2011 fails to map out a coherent and legible path towards a "reconfigured framework of legitimation beyond the state" (176), it is in the good company of most other political projects that have attempted to confront injustice and make society anew. If it is in the nature of such ambitions to come up short, this doesn’t remove the historical obligation to act, and this volume is to be commended for taking on what is clearly the urgent task of our time.

The 2011 Yearbook contains seventeen articles divided into five thematic areas, each with its own introductory essay by Martin Albrow and Hakan Sekinelgin. With the exception of the “Environmental Justice” section, the divisions are rather permeable; the articles in the "Transitional Justice" section, for example, are clearly part of the same discussion as those in “Collective Memory,” and the section devoted to “Networking for Global Civil Society” could encompass any of the articles in the volume. Indeed, what’s striking is the similarity of the observations noted by all of these authors in their widely varying geographies and fields. Almost all point to an emerging reflexivity between legal institutions, both metropolitan and international, and new, proliferating global expressions of "collective felt injustice" (6), transnational, fluid and often temporary alliances that push back on established authority and expose the gap between law and justice. Activist Heisoo-Shin’s account of the campaign for accountability from the Japanese government for sexual enslavement during World War Two is a fascinating example of this reflexivity, as it provides a step-by-step guide to the move from an unresponsive national forum to an international forum, and the different strategies that apply to each (14-28). By shifting its advocacy from a particular issue (Japanese responsibility for war crimes) to a general issue (contemporary sex slavery and rape as a weapon of war), the Korean Council was able to secure a place for itself in international legal settings where it could then return to the particular issue and force Japan to respond. Similarly, Martin Vielajus and Nicolas Haeringer describe the strategies of HIV/AIDS sufferers and urban groups such as Slum Dwellers International that succeeded in bringing these groups face-to-face with national politicians through international conferences, when they were denied time with such officials in their own countries (88-101). The “boomerang effect” noted by scholars of transnational activism is further illustrated by Millie Creighton, whose discussion of Article 9 of the Japanese Constitution shows the capacity of a national provision to take on international valence and become a resource shared and shaped by global civil society (182-194). Though written by the occupying United States government to serve its own purposes, Article 9’s “renunciation of war principle” has become effectively dislodged from its original postwar context to become an open-source global asset used by a number of groups, from Okinawans fighting to preserve their language to transnational alliances of host countries in opposition to US military bases. Such a process creates "islands" of transnational justice demands – a territorial metaphor used by several authors in the Yearbook – that produce new norms as well as new histories, including, in Creighton's account, revelations about the Cold War strategy of the United States to suppress Japanese overtures of reconciliation and apology towards China (186).

Yearbook 2011 is at its best when it turns the podium over to seasoned activists like Kevin Bales who, with Jody Sarich in an article on the anti-slavery movement, reminds us that the world’s most universally condemned crime is the one least likely to be addressed through legal systems (64-76). One consequence of the vast increase in the number of people living in extreme poverty, a rise noted in this and nearly every other study of the contemporary global economy, is a world collapse in the price of slaves, making some 27 million enslaved people as “disposable” as “plastic pens or Styrofoam cups” (65). In a sophisticated analysis of the paradox of law making, Bales and Sarich show how positive law, which requires fixed definitions in order to identify the elements of a crime, constructs inevitably limited popular understandings which take on a life of their own and get in the way of justice. "Slavery" is an international crime, but there is no justiciable definition of this term that adequately encompasses its modern parameters, a situation revealed in the frequent use of the term "slave-like" by politicians and journalists in a discourse still bounded by the Anglo-American abolitionist movement. US anti-slavery enforcement amounts to less than 2% of the sum spent combating drugs (and diminishes to microscopic proportions if incarceration costs are included). As Bales and Sarich point out, "most citizens in most countries would consider it absurd to make regular charitable donations to combat the crime of murder," yet throughout the globe voluntary anti-slavery organizations serve as the first line of law enforcement (69). Bales and Sarich fail to point out that this disconnect between slavery and law enforcement is partly a reflection of the gendered nature of the crime. The working definition of slavery they propose is also described as the institution of marriage, de jure historically and de facto in much of the world today, a symmetry noted by some of the Victorian "White Slavery" activists Bales and Sarich champion as early global justice reformers. These women understood, as do some of the more radical theorists missing from this volume, that slaves are always gendered female, regardless of their sex.[1] As such, they are
controlled by men and their relations are part of the “private sphere,” an area off-limits to the liberal state in both its metropolitan and international incarnations. Bales and Sarich should not be surprised to find that the gendered construction of international law renders it unable to recognize the power and violence exercised in this realm, relegating the victims of slavery to private charity as their chief form of recourse.

6 Like Bales and Sarich, many of the authors in this volume seem to suggest that the first step in addressing global injustice is to expose the internal contradictions within and between existing structures of law, to remind us, for example, that polygyny is legal as “Islamic” in some countries and illegal as “un-Islamic” in others (97), or that it’s illegal to deny the Armenian genocide in some countries but illegal in Turkey to claim it occurred (51-52). But the experiments in alternative justice promoted by many of these scholars and activists seem marked by analogous contradictions. In their case studies of transitional justice in Sierra Leone, for example, Sofia Goinhas, Sara Kendall and Alpha Sesay acknowledge that the United Nations Special Court for Sierra Leone effectively hampered the simultaneous proceedings of the Sierra Leone Truth and Reconciliation Committee (157-158), and while generally recommending “community-based justice and reconciliation” traditions, they note that “the system is not beneficial to women,” a presumably fatal flaw since women were the chief victims of the conflict at issue (153). More disturbing still is the frequency with which some of these authors seem to be talking right past one another in their hopeful claims for the ability of civil society to deliver justice. Iavor Rangelov and Ruti Teitel commend the Special Court for Sierra Leone as an example of a “hybrid” transnational court (164), yet a careful reading of the previous article reveals that the Court is “hybrid” in name only (footnote 1, 160). The climate justice movement described by Dorothy Guerrero insists that an “alternative normative lifestyle” approach is both inadequate and distracting (125), yet the following article commends precisely that as a response to the global food crisis (131-132). The final section of the Yearbook contains case studies of Korea, Burma and India that have crucial intersections with slavery and trafficking, yet the issues raised by Bales and Sarich never appear, and the uncritical employment of phrases like “women-specific jobs” (198) further suggests differences in the assumptions and terms used by the various authors. In keeping with the generally upbeat tone of most of the introductory essays, Chandon Sengupta describes Burma as benefitting from “various empowerment initiatives” that “have expanded the global civil society spaces for voices to impact on the international human rights agenda” (180), but Maung Zarni’s utterly bleak account of the situation in Burma at no point gives support for such optimism (206-220). As Zarni makes clear, the junta has successfully shut down and chased out every intervention by “global civil society,” including the shocking refusal of humanitarian aid after the 2008 typhoon, and appears poised to adopt the ethnic cleansing strategies employed by Sri Lanka against the Tamils and resistance, in spite of global civil society’s universal condemnation of that brutal campaign (217).

7 It is no accident that Zarni’s sobering antidote to the hopeful confidence expressed elsewhere in the volume draws upon data provided by activists in Burma whose lives are at risk and whose names must be concealed (206, footnote 4 at 218). These are the grass roots practitioners whose perspective the Yearbook invites, and they are quite plainly directing academics back to the raw fact of state power, including the possibility of their own complicitous role as social scientists in constructing a “deeply troubling epistemic framework” of “neo-orientalism” (211, 208). Similarly, the practitioners in the Tax Justice Network quite plainly connect contemporary global institutions and practices with their imperial predecessors, and offer a sobering reminder that the same digital technologies relied upon by the new “collective expressions of injustice” are simultaneously facilitating a new stage of capitalist expansion (78-86). Here, the hopeful metaphor of “islands” of justice is confronted by the reality of islands of secrecy jurisdiction where an astonishing one-third of all private wealth is kept safe from democratic access and, in many cases, cleansed of its illegal origins (79). Read in tandem with Guerrero’s critique of the UN sanctioned carbon trading system, in which ownership of property rights to clean air are ascribed to private entities, much like property rights to land and labor were ascribed in earlier stages of imperial development, these grave assessments of global justice compel us to look critically at “global civil society,” both in practice and as an analytical concept, and assess to what extent it is implicated in the late twentieth/early twenty-first century expansion of global economic inequality. Is “development” a necessary component of the project of global justice (108, 228), or is the right to NOT be “developed” a missing, but critical doctrine for constructing today’s transnational justice systems (210)?

8 In his recent history of international law, legal academic/practitioner Antony Anghie tracks the pivotal role of international laws and organizations in constructing Western imperial rule, an account that should give pause to all who support global justice and see international law as part of the process. The natural law system of jus gentium, the civilized mission of nineteenth century positive law, the development imperative of the Mandate System and its postwar successor, the Bretton Woods institutions, were all shaped by the imperial encounter, resulting in a body of international law that
has cultural inequality built into its foundation, especially in the doctrine of sovereignty. In his own experience as a global civil society actor – as legal counsel for the island of Nauru in its claim against Australia for years of disastrous phosphate mining – Angjie confronted an international legal regime structurally unable to recognize and redress a flagrant case of environmental wrongdoing. This history, and the strong case Angjie and others make for the limits of international law, confronts us with the disquieting suggestion that “global civil society” is the most recent in a long history of terms used to describe the best hopes of Western idealists who abet at the same time as they challenge the injustices of imperial expansion.[4] The earnest efforts of Victorian crusaders against King Leopold in the Congo, or against the “primitive Hindoo” practice of child marriage, or against other injustices perceived by a newly cognizant civil society at the dawn of contemporary globalization 100 years ago, resulted in dubious “victories” that often reproduced, rather than disrupted, the economic and gendered basis of the international legal system. This history should make us skeptical of contemporary claims of victory and particularly mindful of new forms of paternalist apology. Consider the following observations and claims in Yearbook 2011: The actors in a post-conflict setting are unable to understand or tolerate the nuances and indeterminacy of academic history and require instead a “simplified version of history” (51). The UK based charity Conciliation Resources works with local organizations to re-educate war-ravaged communities in their own traditional methods of conflict resolution, including “a libation ceremony to appease the Gods” (154-155). While obligatory virginity tests in India “go against the ideology of human rights,” they “make sense to the members of the community” and are “an integral part of their culture and a means of pursuing their values” (142). While these authors make clear elsewhere their deep and sophisticated awareness of the complexities of cross-cultural politics, words so reminiscent of an earlier stage of imperial piety should set off alarms and trigger a round of critical self-awareness.

Critical reflection might also be in order when the perception of progress is based on “victories” that amount to no more than 15 minutes before an unresponsive international forum, a commemorative museum funded privately by the victims themselves, legislation and judicial rulings with no mechanisms for enforcement, or an international court that, so far, indicts only African criminals. Would Western victims accept a “win-win method” of forgiveness and reconciliation as an adequate legal remedy to mass rape, mutilation and murder (156)? Is it possible to imagine any Western nation that would accept as legitimate a state that sets up courts in anticipation of electoral violence, in apparent recognition of its powerlessness to prevent it (163)? For whose benefit is a transnational tribunal protected from the local community by armed guards and barbed wire, but with an internet connection webcasting the proceedings? That someone sitting in a Starbucks in San Francisco has more access to the Sierra Leone war crimes trials than anyone in Freetown suggests that the “collective felt injustice” being addressed resides predominantly in Western culture, especially considering that the best-selling Ishmael Beah memoir of life as a child soldier in Sierra Leone was sold in Starbucks shops globally, and that “Blood Diamonds,” a film dramatization of the civil war, was nominated for five Academy Awards. Is it possible that such global civil society achievements have as much to do with assuaging Western guilt and regulating an inherently exploitive international system as they do with justice?[5] Rather than diminishing the critical importance of the work described in this volume, a corrective recognition of the multi-layered motivations and the inevitably mixed results would underscore how very difficult this project is and would be a more honest tribute to those who have the courage to undertake it.

Recent studies of Victorian transnational movements have suggested that Western intellectual and philanthropic activists were not simply the misguided imperial facilitators depicted by postcolonial histories, that instead these early global activists shared a critical perspective with their non-Western colleagues and that together, on occasion, they brought justice where it had long been absent.[6] The contributors to the Yearbook project no doubt are constructing a similarly mixed record of both change and co-optation, perhaps an inevitable legacy, as I suggested at the outset, of those who take on the fundamental project of reconceiving and building a just society. The long history of political idealism suggests that critical self-awareness is the constant mark of those who have come closest to this ever-reeeding goal.

No review of Yearbook 2011 should fail to mention the power of the photograph the editors chose for the cover. The flowered dress and brutally scarred arm of a sex slave is all that one sees, but like the iconic picture of the scarred back of an adult male slave that galvanized a collective sense of injustice in antebellum America, the image commands a response. It is arguably a measure of both our historic failures and the urgency of action that in 2011 the iconic slave is a young girl so bereft of hope that she inflicts the scars on herself.
Notes


[2] “Global civil society” is used as a self-evident term throughout the Yearbook series and, indeed, is employed widely in the literature on internationalism, including in United Nations official documents. While an engagement with the analytic validity of this term is beyond the scope of this review, I do note that it is used in varying and often inconsistent ways in this volume. Sometimes it is opposed to the state and the market and is used as a vague placeholder for popular justice (see 82, 108, 166). In this vein, it is often separate even from international non-governmental organizations which have become disengaged from genuine “people’s organizations” (see 100). Elsewhere, however, global civil society serves to correct the failures of popular justice and is a broad enough category to include state funded professional organizations, institutes and foundations funded by conglomerates such as Microsoft and the Tata Group, and even the entire unrecognized state of Taiwan (see 154-155, 203, 37). Zarni even throws in “some Western powers” in his description of global civil society (218), suggesting that this term might be an under-problematized trope for “the good guys.” It often stands in opposition to the also under-theorized “global capitalism” or “capitalist development” (see 8-9, 122-123). In both cases, the mistake is made of assuming the existence of the very thing to be explained. For a rigorous defense of the category “global civil society,” see Mary Kaldor, (2003), “The Idea of Global Civil Society,” International Affairs, 79(3):583-593.


[5] The controversial and widely read critique of international humanitarian aid by the Dutch journalist Linda Polman makes a similar point, though with less appreciation than I mean to acknowledge for the invaluable, positive good work that comes along and co-exists with these flawed efforts. See Linda Polman, The Crisis Caravan: What’s Wrong with Humanitarian Aid? (Metropolitan Books, 2010). For a thoughtful analysis of this issue by a legal academic/practitioner see David Kennedy, The Dark Sides of Virtue: Reassessing International Humanitarianism. (Princeton University Press: 2004).