
This is a very interesting and scholarly work that systematically and thoroughly analyses the validity of the main human rights concerns regarding the law and practice created by the World Trade Organisation (WTO), its underlying free trade theory as well as the (not always compliant) practice of its members. After introducing the WTO and the international human rights regimes in chapter 1, the book examines the relationship between the WTO and international human rights law in chapter 2. It then analyses several relevant issues including democratic deficit within the WTO (chapter 3); human rights restrictions on trade (chapter 4); the WTO, poverty, and development (chapter 5); the WTO and the right to food (chapter 6); the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and the right to health (chapter 7); extraterritorial human rights duties (chapter 8); and WTO reform (chapter 9). The book concludes that ‘the WTO has a way to go before it can be deemed to be a true friend of human rights’ (p. 297).

The realisation of human rights does not lie solely in the hands of the particular State although it is usually the only one called to answer, when the standards of human rights are lacking on its territory. This is particularly true in the case of economic, social and cultural rights. Having in this regard previously explored ways of holding multinational corporations liable for offshore human rights abuses,1 Sarah Joseph’s more recent publications have focused on the WTO and its global impact. In 2009, she co-edited an interdisciplinary collection of essays on the matter bringing together trade and human rights scholars and thus bridging the traditional divide between trade and human rights research.2 Her present monograph builds upon this work.

Joseph bases much of the work on her analysis of the case law of the WTO panels and its Appellate Body, finding that the majority of cases indicate States actually retain significant regulatory capacities to protect public health and human rights considerations under the allowed exceptions (p. 140). However, Joseph doubts that WTO bodies, which consist of trade experts, will always adopt interpretative techniques in a manner satisfactory for human rights. On the other hand Joseph also opposes the easy creation of trade barriers by states. In chapter six, it is demonstrated how the abuse of protectionist measures by developed countries in the agricultural field, can detrimentally impact on the

right to food by devastating the livelihoods of farmers in developing countries. Joseph rightly submits that the ‘most important human rights issues within the WTO concern the extent to which WTO obligations work against the interests of the people of developing States’ (p. 275) and thus contemplates any potential reform bearing this in mind. At present, she claims it is almost universally recognised that WTO rules are clearly biased in favour of developed States against developing States (p. 258). Considering this issue from a historical perspective the book notes how now-developed States used methods such as protectionism, certain forms of subsidies and a disregard for intellectual property rights to kick-start their economies. These measures are now forbidden for developing states which are pushed into a premature liberalisation of their markets coupled with an unreasonably high respect for intellectual property rights under the TRIPS Agreement.

The book further analyses the devastating effects of the TRIPS Agreement on the right to food and health in poorer countries and exposes the hypocrisy of the traditional justifications for the protection of intellectual property (p. 230-237). Joseph recognises that the TRIPS Agreement sometimes allows sufficient flexibilities in relation to the right to health however, she claims that in practice it is difficult for poorer States to make use of them, especially under threats of sanctions from ‘powerful’ States, who in turn (ab)use the same flexibilities when it comes to their own interests (p. 224). Joseph also demonstrates how the rules of intellectual property protection can be played to commit piracy of traditional knowledge, i.e. where minor industrial modifications of indigenous discoveries are patentable, essentially leading to absurd situations of peoples buying back their own knowledge at exorbitant rates. These and many other injustices are skilfully presented in the book, however its author refrains from demonising the WTO and reminds the reader, at relevant parts, of the role played by international financial institutions in promoting unfair rules (pp. 149, 151, 171, 188, 192). In areas such as agricultural protection in the North, the author finds these institutions to be perhaps more culpable than the WTO, although the latter has not as yet taken the necessary steps to redress this unfairness (p. 296).

As the book notes, the theory of comparative advantage ‘does not explain how underdeveloped States, or “latecomers”, can upgrade their economies to properly “catch up”’ (p. 172). Joseph finds sound legal arguments in favour of extra-territorial human rights duties, which would in the context of the WTO, would mean that richer States have an obligation to help alleviate poverty in poorer States by making WTO obligations fairer (p. 264). In this regard she

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3) citing Mehdi Shafaeddin, ‘Does Trade Openness Favour or Hinder Industrialization and Development?’ Third World Network & Development Series No. 31 (TWN, Malaysia, 2006) 12.