

the reader to give further thought to the modalities of applying feminist methods to one's own work in international law. Thanks to this brilliant, timely and incisive book, I am interrupted and silent, but actively contemplating the challenges both of responsible listening and of withdrawing from the legitimization of systems of violence and dispossession.

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Anna Chadwick. ***Law and the Political Economy of Hunger***. Oxford: Oxford University Press, 2019. Pp. 256. £70. ISBN: 9780198823940

The book under review examines the international law and political economy aspects of the persistence of hunger in the world. It has emerged out of a doctoral thesis written by Anna Chadwick under the supervision of Susan Marks and Andrew Lang at the London School of Economics. It was published in the fine series 'The History and Theory of International Law', co-founded and run by Nehal Bhuta at the University of Edinburgh. The author is currently a lecturer at the University of Glasgow.

With this book, Chadwick tackles one of the biggest and most shocking issues of global justice, namely the fact that millions of people on the globe still go hungry even though it would be possible to feed them all. The most extreme manifestation of this scandal was the global food price crisis of 2006–2008 which seems to have inspired the research. In 2009, the UN Food and Agriculture Organization (FAO) looked at the reasons for the soaring food prices and identified the following: shortage in supply due to droughts and unfavourable weather in major exporter countries and resulting low cereal stock levels, changing consumption habits in high population countries such as China and India (e.g. resulting in steeply rising demand for meat whose production uses high amounts of cereal feed), speculation on agricultural stock markets, the depreciation of the US dollar and, finally – as probably the most import factor – the demand for biofuel which was in turn influenced by oil prices.¹

This list of factors gives a glimpse of the complexity of the issue of food prices and – concomitantly – illustrates how ambitious a doctoral thesis has to be to tackle it. Embedded in the introduction and concluding chapter, Anna Chadwick's argument

¹ Food and Agriculture Organization (FAO), 'What Happened to Food Prices and Why?', in FAO, *The State of Agricultural Commodity Markets: High Food Prices and the Food Crisis – Experiences and Lessons Learned* (2009) 8, esp. at 25, available at www.fao.org/3/i0854e/i0854e00.htm.

proceeds in six chapters. These address, respectively, the global food system (chapter 1), the ‘financialisation of agriculture’, that is the shift away from manufacture and trade as a source of income towards generation of revenue through financial services (chapter 2), food commodity speculation (chapter 3), regulation (chapter 4), financial innovation (chapter 5) and human rights (chapter 6). Citing Sundhya Pahuja, Anna Chadwick adopts a post-colonialist approach, postulating ‘that international law has been a central mechanism through which neo-colonial power is simultaneously exercised and disguised’ (at 31), and finding that ‘the role of law in enabling market operations and entrenching inequalities between North and South remains widely neglected’ (at 48).

The author’s ‘key preoccupation’ is ‘to shift attention away from the role of law as a solution to the persistence of hunger – law’s regulatory dimension – and to focus on the constitutive law of the marketplace’ (at 193). She finds that international legal responses to hunger ‘simultaneously underweight the embeddedness of regulatory law and political economy, and, relatedly, . . . pay insufficient attention to the operations of constitutive legal regimes that function to obstruct efforts to realize a right to adequate food’ (at 166).

Leaving aside the author’s distinction between ‘regulatory’ and ‘constitutive’ law, the dual argument boils down to the following: First, that law matters less than political economy (which is ‘the deeper structural cause’ of hunger (at 20)), and second, that law is frequently not a force for good but a force for bad (‘a key factor in contributing to the persistence of hunger in a world of plenty’ (at 3)). Taken together, these claims should lead to the conclusion that international law (weak as it is) is after all only *moderately* harmful, but the author does not draw this conclusion. Rather, she insists that the legal system (which constitutes and regulates markets) produces both the practice of food commodity speculation and the persistence of world hunger.

Anna Chadwick does not end with this diagnosis but suggests a way forward. In line with her prior analysis, she cautions that ‘we need to fundamentally re-evaluate the kind of legal interventions and strategies that we employ’ (at 18). She calls for adjustments to some of the ‘constitutive law enabling market operations’ as opposed to focusing solely on developing additional regulatory regimes to respond to hunger (at 194). With regard to the latter (‘regulation’), she distinguishes between ‘centralized regulatory agencies’ and ‘dispersed’ regulation and suggests ‘to focus on the powers of dispersed regulatory agents already operational within the market’ (at 195). Concretely, this means support and protection for small-scale farmers (at 193), fixing ‘just prices’ for wheat (at 197). (She neglects the absolutely devastating historical experience with land reforms in Zimbabwe, Bolivia and elsewhere.)

The author’s neo-Marxist approach (in its post-colonial variant) to the issue of hunger seeks to expose not only (and not even mainly) the weakness of international law but rather its negative potential. This framework to some extent predetermines the outcomes. Especially the attack on human rights is a familiar trope, stretching back, of course, to Karl Marx’ essay on the Jewish question of 1844 in which Marx

denounced human rights as a pacifier for the atomized 'egoistic man', focused on his private interests and separated from his community.²

Marx would surely appreciate that Chadwick writes: 'By encouraging a sense of entitlement and position, then, rights discourse can serve to entrench the very structures that systematically dispossess poorer less well-resourced constituencies of the population' (at 182). It is the merit of this study to apply the neo-Marxist framework (including its hostility towards rights) to a complex field, namely the global food and agricultural industry including the financing scheme.

While Marxist theory forms more an undercurrent to the book than an explicit point of reference, the argument expressly relies on ideas of Karl Polanyi (at 16–18), who is also cited in the preface by Nehal Bhuta. What Polanyi has famously called the *Great Transformation*, namely the emergence of the modern state hand in hand with the creation of a market economy, has indeed, as already Polanyi pointed out, led to massive social problems, even to catastrophe. Chadwick now seeks to show, by exploring 'the role of law in the context of food commodity speculation, price volatility, and hunger', that the (overly) positive attitude towards markets 'is crystallized into constitutive law that hinders the ability of the State to regulate the market in the interests of society' (at 17). The law, she claims, has economized the social, and therefore inhibits a shift towards 'another kind of politics' (at 17). Maybe a reform in the direction of state socialism would be such 'another kind of politics' but I doubt that this would solve the problems humankind is facing, looking at states which have tried this out in the recent past and present.

Chadwick's neo-Marxist approach risks exaggerating the power strictures, limitations of choices, economic power and even 'violence' resulting from the market price model (at 43) to which states of the Global South are exposed. A number of her claims are so broad that they cannot be properly sustained or refuted. The claim that 'the prescriptions of the Bretton Woods institutions and the operations of international legal regimes on trade and investment have served to the detriment of countries in the south' (at 165) illustrates this: it is as such too summary to be convincing. Although various features of international trade and finance law and institutions (also analysed in this book) should be seen critically, it seems simplistic to summarily qualify all of them as always bad for all of the Global South.

In a short book review, it is not possible to properly address and assess the book's grand claim that the present legal configuration is mainly market-constitutive, and that global markets and their operations persistently and 'structurally' harm the Global South.³ I will therefore focus on one building block, namely the suspicion against human rights. In chapter 6, Chadwick examines the potential of the human right

² Marx, 'On the Jewish Question' [1843], in K. Marx and F. Engels, *Collected Works*. Volume 3: 1843–1844 (International Publishers, 2005) 146, at 164.

³ See, for a different take, Peters, 'Global Constitutionalism: The Social Dimension', in T. Suami *et al.*, (eds), *Global Constitutionalism from European and East Asian Perspectives* (2018) 277.

to adequate food as a vehicle (including through litigation before national courts) to combat world hunger. Her conclusion is that the focus on international human rights law underestimates ‘the embeddedness of regulatory political economy and pay[s] insufficient attention to the operations and dynamics of private law’ (at 191). By private law she of course means property and contractual rights. Chadwick rightly points out that ‘human rights have also been a tool employed by existing political orders as a means to bolster their own legitimacy’ (at 176). The thread of her argument is that the ‘global food system’, ‘through the assignment and protection of legal entitlements of more powerful market actors consistently operates to the detriment of poorer communities’ (at 183). She therefore finds it ‘necessary to investigate which combinations of rights and interests constitute the market power of the status quo, and to mount a challenge to the legitimacy of the dominant mode of legality that determines access to productive resources’ (at 188). Chadwick’s overall conclusion on human rights is that ‘a focus on improving market regulation and strengthening the human right to adequate food are not likely to be effective strategies for tackling the phenomenon of food commodity speculation, or for addressing longer-standing inequities in the global food system’ (at 202).

It is the merit of the book to dwell on the key question which is whether a structural problem (world hunger) can be usefully forced into the mould of human rights. The individualized approach based on human rights risks losing sight of the systemic aspect. However, the baby should not be thrown out with the bathwater. Bashing rights is currently *en vogue*. The critique comes from both ends of the political spectrum. While the book under review sits on the ‘left’ end, attacks are heavy also from the ‘right’ side. Eric Posner had already in 2014 announced the ‘Twilight of Human Rights Law’. Last year, a US American ‘Commission on Unalienable Rights’ was established by the Secretary of State, with the mandate to provide ‘advice and recommendations on human rights to the Secretary of State, grounded in [the United States’] founding principles and the 1948 Universal Declaration of Human Rights [...] for the promotion of individual liberty, human equality, and democracy through U.S. foreign policy’.⁴ Obviously, the direction here is to cut back human rights to their roots, and remove what is seen as excess and exaggeration.

I assert that we should defend human rights against the attacks from both sides by recalling their usefulness and value. As critical race scholar Patricia Williams famously wrote in her *Alchemical Notes*: ‘rights’ are ‘so deliciously empowering to say’.⁵ By empowering people, human rights transform victims into citizens. It is overly convenient by those who enjoy rights to easily dismiss them. Strategically, human rights claims open access to courts, both national and regional. But besides being hard and justiciable, human rights also are a background flame which mandates the interpretation and application of all law in its light. Finally, human rights are ‘symbolic legislation’ in the best sense of the term, by expressing core values to which a society commits

⁴ Charter for the Commission on Unalienable Rights, Art. 1, available at www.state.gov/charter-for-the-commission-on-unalienable-rights/.

⁵ Williams, ‘Alchemical Notes: Reconstructing Ideals from Deconstructed Rights’, 22 *Harvard Civil Rights-Civil Liberties Law Review* (1987) 401, at 431.

itself. A legal system made only of standards of protection, without entitlements (only *lex*, as opposed to *ius*), would lack the political, strategic and symbolic elements just mentioned. Chadwick's dismissal of human rights 'as a means to remedy injustice on a deeper, structural level' (at 176) implies that these various functions of human rights are negligible or maybe even damaging, and this dismissal risks playing into the hands of even more 'neo-liberal' market-fetishist legal trends mentioned above.

Let us return to the overall thrust of this well-written, well-researched and provocative book, namely that the international law responses to hunger are either too weak or counterproductive. Not even hard-line legalists would deem law to be the problem solver number one. And actually, Anna Chadwick, too, despite all her scepticism about the benign effects of the operation of the legal system, ascribes a lot of power to what she calls 'constitutive law'. Clearly, the law is only one mode of governance among others, such as economic power and military force. It is probably the weakest of these three. However, even if the law cannot in itself bring about social change and bring to an end social evil, it seems to be a *conditio sine qua non* for change. In our fully regulated life, it cannot be otherwise. The law is not only a hollow hope but can be made a force for good – or for bad. For sure, it is a 'greater task . . . to challenge the law systematically' (cf. at 198), by means of revolution even. But this is beyond writing books and book reviews!

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Rebecca Schmidt. **Regulatory Integration Across Borders: Public–Private Cooperation in Transnational Regulation**. Cambridge: Cambridge University Press, 2018. Pp 258. £85.00. ISBN: 9781108426787

The world of global regulatory governance is a rhizomatic maze.¹ Regulatory actors are scattered across new spatial, functional and temporal constellations. Their alliances are fluid and unstable, their modes of governance experimental and deformalized. In

¹ The concept of 'rhizome' refers to the idea of a horizontal, heterogeneous, non-hierarchical and permanently evolving structure of growth. See G. Deleuze and F. Guattari, *A Thousand Plateaus: Capitalism and Schizophrenia* (B. Massumi, trans., University of Minnesota Press, 1987), at 3–26. Schmidt's book refers to the 'myriad paths' (at 34) and 'complex mosaic' (at 50) of global governance. The rhizomatic quality of transnational legal theorizing is signalled by Somek in his reply to Kingsbury's article 'The Concept of "Law" in Global Administrative Law', 20 *European Journal of International Law (EJIL)* (2009) 23. See A. Somek, 'The Concept of "Law" in Global Administrative Law: A Reply to Benedict Kingsbury', 20 *EJIL* (2009) 985, at 986.