Review Essay

Theory of /or Theory instead of/ International Law

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Higgins, Rosalyn. *Problems and Process: International Law and How We Use It*. New York: Oxford University Press, 1994. Pp. xxvii, 267. Index. $19.95.

I. Introduction

It is traditional for textbooks to begin with a chapter on the nature of international law, to move on to the sources and, then, to march merrily into the real heart of the subject, all of the rules! If the nature of international law is that it is a process, a system of authoritative decision-making and not just the neutral application of rules, this must affect the whole treatment of the subject. Such is what Higgins claims in the concluding page of her work. The answer to a legal problem depends upon one's view of sources, and that in turn depends upon one's legal philosophy. 'There is no separating legal philosophy from substantive norms when it comes to problem solving in particular cases.'[1] This is a very strong statement for the place of theory. It will be the theme for reflection on Higgins' work. It is not the reviewer's intention to claw pedantically through Higgins' text to see whether she in fact turns every issue which might appear to be a matter of rule application into a matter of policy. Higgins' approach to such bodies as the World Court, the International Law Commission and the Security Council is so iconoclastic[2] that even where the general opinion may be that a matter is definitely regulated, she will be likely to question the

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1 Higgins, *Problems and Process*, 267. Hereinafter, simple page references will be bracketed in the text itself.

2 For instance, the bracing treatment of the ILC's work on the question of state responsibility (146 *et seq.*) for failing to confine itself to questions of attributability; the dismissive treatment of the *obiter dictum* of the World Court in the *Chorzow Factory* Case on the question of compensation for loss of profits of an expropriated property (144); the highly critical review of the Court's application of equitable principles to maritime boundary disputes (219-28); the critical review of the Security Council encroaching on the judicial function with respect to Iraq after the war of 1991 (181-4).

policy rationale of the established consensus. Instead, it will be asked how Higgins grounds the authority for the policy process which she espouses, and whether in fact she is able to push her way through the dead weight of institutional convention. Is the reference to 'How We Use it' in the subtitle to the book also a euphemism for the inevitability of legal pragmatism?

II. Higgins' Place in Contemporary Debates about the Theory of International Law

Higgins follows closely her mentor McDougal, quoting his definition of authority as 'expectations of appropriateness in regard to the phases of effective decision processes. This supposes 'personnel appropriately endowed with decision-making power' (4). Higgins adds that authority has to be seen as interlocking with supporting control, or power (4). Quoting her own position in 1968, she proposes that a decision is a legal decision when it is made by an authorized person or organ, in appropriate forums, within the framework of established practices and norms. With the stress on law as a decision-making process, the distinction is drawn simply between the decisions which have been taken and those which have to be taken in the future (5).

As one should expect, Higgins introduces her theory of law into her definition of custom. Focusing on the question of how rules or the trend of decisions change, Higgins claims that for rule-based international lawyers the violations of law show how rules are dependent upon power. For process-oriented lawyers, for whom law is the confluence of authority and control, this divergence is not fatal. Instead, it is the usual practice of most states which is critical. Higgins excludes any place for natural law or any species of a *grundnorm*. So, for example, even if genocide sometimes occurs, if 'this is not the usual practice of most states, the status of the normative prohibitions is not changed'(18–22). Here, Higgins does not appear to challenge the central place of states in international law. Nor has she a quarrel with the particular formulae used to describe its sources. Instead, she simply sees the international legal order as a process in which authoritative decision-makers – inevitably closely attached to states – have to recognize that they face choices, often agonizing, in reaching decisions which are either not covered by existing rules or which need to be adapted or amended because they are not equal to the situation. There is a virtually existential drift to her argument. For instance, in opposition to Fitzmaurice, who, in her view, argues that obligations only binding upon the parties are not law, she would define law 'not as norms of general application, but as the conjoining of authority and law [presumably here she means power] in a particular target' (33–34). In a similar existential vein, Higgins frequently simply confirms a position as one which she believes, while rejecting another position as possible but not one that she takes (21).

Higgins does not develop her theoretical foundations further in her lectures and, indeed, refers back to the views which she expressed in 1976 (2). There she has quoted McDougal, but also Reisman who espouses a more explicit behaviourist view of authority as 'a set of conditioned subjectivities ...'. When tripped by outside events, these subjectivities provide indications of appropriate behaviour. Authority is determining human behaviour '... when it indicates that course with a degree of clarity sufficient to excite internal tension or psychic dysphoria if an incompatible course is followed ...' Quoting Farer as well at this point, Higgins stresses the exclusively empirical and non-metaphysical way in which such a concept of authority makes inevitable an overlap between the qualities of authoritativeness and effectiveness.[3]

The one recent development in international legal theory with which Higgins engages is critical legal studies, especially as represented by Koskenniemi. This movement also recognizes the need for a social theory of law and the place of values in decision-making. However, it sees law as a series of contradictions or as essentially indeterminate in its core, rather than as complementary or competing norms among which choices have to be made in particular circumstances. The sense in which law is indeterminate at its core, for Koskenniemi, is that the resolution of issues of contextual justice drives the lawyer into fields such as politics and social and economic casuistry beyond a point where one can no longer identify his arguments as legal. Higgins responds that the key feature which assures legality is that decisions are made by those who are authorized to take them (9). In other words, Higgins does not argue with Koskenniemi about the lack of legal content in the rationality, or quality of reasoning, of law. However, she thinks this deficiency, if it is one, is saved by the presence of legal authority. For instance, McDougal insists that there is on any issue no correct law to be applied but, instead, matching pairs of complementary norms (aggression/self-defence; sovereignty/extraterritorial jurisdiction, etc.).[4] Policy considerations become part of the legal process through authoritative decision-making.

In fact, Koskenniemi rejects the possibility of saving the legal character of international law through reference to authoritative decision-making because the latter must have an 'apologist' character. That is, the authoritative decision-making process is 'open to the criticism that international law is whatever states choose to regard as law, so that the law cannot be an effective external constraint on their behaviour'. Higgins takes this synopsis of Koskenniemi from a review of the latter's work by Lowe (15). In his own review of the McDougal approach, Koskenniemi points out sharply that policy-approach lawyers base their claim to objectivity on scientist assumptions. That is, they believe they are objective because they focus on observable decision-making, authority and effectiveness, and not on rules and their abstract

3 Higgins, 'Integration of Authority and Control: Trends in the Literature of International Law and International Relations', in W. Michael Reisman and Burns Weston, *Toward World Order and Human Dignity* (1976) 80.

4 *Ibid*, at 84.

validity. In fact, this approach becomes sociological description, law as a technique of social engineering, ignoring questions of the validity or content of law.[5] While one should not ignore the ways in which decision-makers occupy themselves with the standards they apply, if law were concerned only with such a descriptive process and not with the ends pursued, it would remain unable to criticize particular states' policy. Critics have objected to the extreme subjectivism of McDougal's discussion of goal value. For Koskenniemi the bottom line is:

> To escape apologism, one has to postulate the existence of objective values. But as there is no test to demonstrate the correctness of these values, this strategy will turn against the policy-approach the objection it advanced against others, namely that of metaphysical subjectivism. This is fatal for the policy-approach on its own scientist standards ...[6]

The principle deficiency in Higgins' review of theory is that she does not take on board the main contemporary jurisprudential objection to what would now be regarded as a common polarization, common to both critical legal studies and the McDougal approach, of difficulties in the interpretation and application of international law. For instance, in a very extensive recent critique of the McDougal approach, which Higgins ignores, Chimni engages in an intellectually serious exploration of the theory of language underlying McDougal's empiricist psychologism. McDougal is taken to believe that verbalization is an abstraction from the unspeakable level of objective events. More generally, Chimni affirms that in the behavioural perspective of semantics reality is unspeakable and all general concepts are constituted through the omission of details.[7] Concretely, this leads McDougal to think that it is open to an individual decision-maker to substitute his own meaning of a text for that of the author.[8] This is to neglect the lessons of modern language philosophy. Chimni follows Wittgenstein in arguing that it makes no sense to claim that every expression has an open texture, since it would then make no sense to claim that any expression did not have the same property. Behaviouralism focuses, mistakenly, on individual words rather than sentences. It thereby misses the fact that the multiplicity of meanings of words can only be narrowed down by indicating the language games in which they occur. So, following Wittgenstein, it has to be seen that the speaking of a language is part of an activity or a form of life, so that to obey a rule is a custom and a practice. Norms are generated by concrete social practices as means to guide, control and evaluate behaviour. The final stage in the argument is simply to claim that international legal rules represent the outcome of such lengthy practices, while, at the same time, such continuing practices can be expected to generate further rules.[9]

5 M. Koskenniemi, *From Apology to Utopia, The Structure of International Legal Argument* (1989) 174.
6 *Ibid*, at 176, also 174-6.
7 B.S. Chimni, *International Law and World Order, A Critique of Contemporary Approaches* (1993) 84-85.
8 *Ibid*, at 88.
9 *Ibid*, at 96-97.

Similar objections have been made to critical legal studies and its scepticism of language. Koskenniemi is said to argue that all is interpretation; no interpretation has any solid epistemological foundation. Therefore, there is no basis for a specifically legal enterprise. Scobbie claims that Koskenniemi is a disappointed post-Platonist who cannot accept any criterion of objectivity other than one based upon an impossible absolute ontology.[10] Scobbie responds that even if objective meaning is impossible, inter-subjective meaning is still possible. By falling into the logical trap of the excluded middle, Koskenniemi ignores how meaning, besides being true or false, can be probable or plausible.[11] Legal concepts and terms do not correspond to an ontological sphere external to the legal system, but instead fit within an institutional framework. Scobbie is here referring to the profession, and particularly the judiciary. As in municipal law, the judge will rely upon an intersubjective meaning which can be extracted from such concepts as 'the reasonable man'. Interpretation may thus have recourse to values embodied within the system to determine which interpretation makes best sense systematically in terms of producing a consistent and coherent result.[12]

These very comfortable pictures of common sense rest upon the assumption of a profession at ease with itself. One might allow Macdonald to complete the picture with his harmonization of rules, principles and policies in his reflections on the role of the Foreign Office Legal Advisers. The policy-oriented approach merely means that the legal adviser should be committed to the broader perspectives of a secular democratic law based upon a responsible clarification of tasks to be accomplished. Dworkin distinguishes policy as a goal to be achieved, from a principle, as a standard to be observed. This is helpful in guiding the former type of question to the legislator and the latter to the judge. So treaty and custom are suitable law-making instruments for policy, while the World Court may look to principles.[13] The Legal Adviser's task spans these divisions. For instance, when he is engaged in the formulation of policy by treaty he has to take in the range of tasks recommended by McDougal. Macdonald sets out four criteria, which draw heavily on a belief in harmony within the profession and the international significance of this harmony. The Legal Adviser should not propose a policy for his country which is unduly inconsistent with the interests of the international community or with the requirements of principle. The Adviser should also fulfil a contemplative role in the development of rules from principles where the World Court has been inactive and in determining what principles fit into the law. Macdonald believes this harmony will emerge if Advisers do not act in a self-serving or ad hoc manner.[14]

10 Scobbie, 'Towards the Elimination of International Law: Some Radical Scepticism about Sceptical Radicalism', 61 *British Yearbook of International Law* (1990) 339, at 345, 347.

11 *Ibid*, at 347.

12 *Ibid*, at 348-350.

13 R.ST.J. Macdonald, *The Role of the Legal Adviser of Ministries of Foreign Affairs* Nijhoff, 396-402.

14 *Ibid*, 403-4.

III. Higgins' Critical View of the Structure of the International Legal System

The only way to oppose the 'happy profession' characterization of international law is through the rather laborious task of enumerating the unresolved difficulties which the profession should be facing, but is not. This is an opportunity to return to the main part of Higgins' work. She confronts numerous crises in the operation of the legal order, which do add up to a complete picture. Consistent with her own interpretation of MacDougal (rather existential), it will be asked whether her own solutions to the problems she confronts have a virtually wilful character.

In a chapter on participants, Higgins identifies the confusion which surrounds the very definition of state as it is applied to contemporary international society. Her account runs as follows. Widespread disintegration of governmental authority has not led to suggestions that the countries concerned have ceased to be states. Yet many individual cases are causing acute difficulty. The status of former Yugoslavia as handled by the UN can only be described as legally confused. While there may be a core of meaning in the concept of state, the significance of each of the component elements will depend upon the purpose for which the entity is claiming to be a state. Whether or not one state needs recognition by another to exist is an unsettled question. Nonetheless, no state has access to generalized arenas without being recognized by substantial numbers of existing states (40–43). This is a pragmatic acceptance of conceptual uncertainty concerning the character of the main 'participant' in international society. Higgins concludes her discussion of 'participants' upon two notes of exasperation. English Courts will not recognize the objective existence of international institutions, but merely take cognizance of them in so far as their statutes are incorporated into English law (46–48). Also, individuals should be the central figures in a human order and not merely the objects of legal rights granted to them by states. More human rights may be emerging, but individuals do not have of themselves procedural rights under international law. The most one can say, as a turn of phrase, is that states should be seen as enforcing the rights of individuals, and not merely their own rights in respect of their nationals (49–54). This discussion by Higgins of the supposed participants in the international legal order does not flinch from exposing the unprincipled chaos underlying it.

Next to a delineation of the participants for whom a legal order exists, one might look to the basic principles of the criminal law which the legal order will enforce. Once again Higgins' picture is harsh. She is exposing the absence of an effective universal legal conscience essential to prospects of enforcement. She begins by objecting to the illusory character of the so-called *erga omnes* doctrine, relying on a World Court dictum that certain obligations owed to the international community as a whole are such that all states have an interest in their protection. Only technical points of the law of diplomatic protection were involved in the *Barcelona Traction* case. After reviewing the national and international grounds for exercising jurisdic-

tion by states over, for instance, crimes against humanity, Higgins strikes a sceptical note about lack of national support, citing the British government's difficulty in implementing its own War Crimes Act 1991. The numerous conventions against terrorism do not provide for universal jurisdiction, but merely for personal and territorial bases for jurisdiction, with the *aut dedire* principle. If such a lack of global consensus about the fundamental character of certain crimes leads to a practice of unilateral state-organized abduction of suspects, Higgins can only say that the policy consideration of punishing those engaged in universally condemned offences, such as war crimes or hostage-taking, could arguably be better served by decoupling the illegal method of kidnapping. In a decentralized legal order a less offensive remedy may have to lie beyond the law in a diplomatic or economic response, and not necessarily in an international judicial finding of wrongdoing (57–72). It is clear to the reviewer that a lack of consensus about both fundamental values and political goals (which might restrict violence) is reflected in a profound absence of the type of institutional facts which the 'happy professionals' could develop through their 'inter-subjectivities' in a Dworkian grand style.[15]

If one is to look for collective remedies for these problems of interstate disorganization, the search will be in vain. There is a chronic refusal of states, particularly the United States to fund the United Nations. It is preferable to quote Higgins at length:

> Wars and inhumane behaviour rage everywhere. No real machinery for collective security through enforcement measures is in place.... The tragic events in the former Yugoslavia illustrate the deeply unsatisfactory nature of fragmented institutional approaches.... UN peace-keeping, together with collective measures under Chapter VII of the Charter, appears to be entering a period of deep incoherence ... (180–1).

In a difficult chapter on the individual use of force, Higgins poses the question how to retain control over the downward spiral into violence, after discussing such legal issues as the permissibility of humanitarian intervention, reprisals, anticipatory self-defence, the nature of armed attack, and so on (239–252). She concludes that the first choice is the basic prohibition against the use of force, direct or indirect, by regulars or irregulars, except for self-defence. The other view is that in a decentralized legal order each action will have to be looked at on its merits, as to whether it will support or crush human values. She believes, personally, that the latter approach favours, in appropriate cases, humanitarian state intervention, but not support for irregulars across boundaries (253). It is hard to imagine a panorama more removed from the complacent games of rules, principles and policies of contemporary Anglo-American jurisprudence.

In the face of so much institutional confusion and failure Higgins does offer a clear, but personal vision in terms of human rights. Not surprisingly, the focus is on individual human rights, universally experienced. Higgins asks: Where does our

15 This pessimism claims no logical force. It is conceivable that an International Criminal Court will be set up and that the Criminal Tribunal for the former Yugoslavia will eventually work.

sense of something being a right come from? She prefers the position that human rights are demands of a particularly high intensity made by individuals *vis-à-vis* their governments (105). There is here a hint of the empirical psychological aspect of the McDougal approach, although it is not developed. Instead, Higgins makes a passionate (presumably highly intense) statement for the universality of human rights. She declares: 'I believe, profoundly, in the universality of the human spirit ...' Individuals everywhere want basic freedoms, above all freedom from the fear of political persecution. These fears are felt as much by African tribesmen as by European city-dwellers (97). This is passionate rhetoric. It ends on the note that it is up to each one of us to participate in the fight for human rights. At the World Conference on Human Rights in Vienna in June 1993, states showed no interest in doing so (110).

Linked to human rights is the definition of the right of self-determination of peoples. The problems of the structure of international law have to do with its basic subject, the state and its relation to its territory and population. Higgins provides a critique of governmental mismanagement in terms which call for democratic reform, treating the individual throughout as the primary matter of concern. This approach provides direction in terms of the reform of governmental structures, but also directs attention away from solutions in terms of group minority rights or substantial changes of boundaries (111–128). The picture is clear. However, the only intellectual support for the approach is in the passionate rhetoric of the human rights chapter.

IV. Forms of Decay in International Law

There are two senses in which the theory and practice of international law at present are decadent. The first concerns the present functioning of the international legal system. It is tedious to have to repeat its defects to an apparently incurably complacent profession. The decadence of the profession shows itself in its willingness to turn a blind eye to the deficiencies. It is important to be alert to the militant conservatism implied in Scobbie's rejection of Koskenniemi. His language is inquisitorial. Can Koskenniemi refute the charge of legal nihilism? Is Koskenniemi's desire for a coherent legal order not an exhibition of his own oedipal repression of conflict? The man criticizes for 500+ pages, but does not provide a coherent alternative. And Koskenniemi comes off lightly. He may be tolerated '... but the motivations of those who are not as well-read or as thoughtful as he is but jump upon the deconstructionist bandwagon must be open to question ...?' [16] With what consequences, one might ask? The profession consists of those who realize that functioning authoritative institutions provide a framework within which legal argumentation can take place as structured dialogue. '... States must persuade judges of the worth of their argu-

16 Scobbie, *supra* note 10, at 352, also 347, 349.

ment ...'[17] In fact, a profession is decadent when it closes its own practices off against the sufferings of the humanity it should endeavour to serve. The profession debates with itself and shuns direct contact with non-professionals, i.e. with the world outside its own meetings and journals.

There is a second sense in which the international legal profession is decadent, and it is doubtful whether anyone can escape the charge. It is not simply the entire working agenda of international law which has to be changed, but entirely new methods have to be found to tackle freshly defined problems. Yet here we are faced with a crisis of modernity which MacIntyre has shown afflicts the whole field of humanities studies. Higgins' work is full of references to what she believes. Yet the intellectual's modern predicament is characterized by 'the absence of any agreement upon where the justification of belief ought to begin, the de facto ineliminable conflicts as to how various relevant types of considerations ought to be ranked in weight and importance as reasons for holding particular sets of beliefs, and the limited resources provided for reasoning about the justifications of beliefs by even the most subtle and rigorous analysis of entailment relations...'[18] Without attempting to summarize MacIntyre's entire book, it may still be possible to mention one aspect of his argument which will at least assist in tackling decadence in international legal method. Here, decadence simply means a blustering insistence upon the correctness of one's own approach, without recognizing that one is operating within a paradigm that has received limited assent.

In his reconception of a university, MacIntyre calls for the development of morally committed modes of dialectical inquiry. The university would be a place of constrained disagreement, of imposed participation in conflict. In this picture, each would be the protagonist of a particular viewpoint, while engaged in two distinct but related tasks. The first would be to advance inquiry from a particular point of view. 'The second task would be to enter into controversy with other rival standpoints, doing so both in order to exhibit what is mistaken in that rival standpoint ... and in order to test and retest the central theses advanced from one's own point of view against the strongest possible objections to them to be derived from one's opponents.' This is to replace the neutrality of the liberal university – the congenial environment of the happy professionals – with a university as an arena for the conflict of the most fundamental beliefs.[19]

V. Clashes of Paradigms: Conclusion

One can illustrate what MacIntyre's argument means concretely by returning to Higgins' declaration of belief in and commitment to individual human rights, par-

17 *Ibid*, at 351.
18 A. MacIntyre, *Three Rival Versions of Moral Inquiry* (1990) 12.
19 *Ibid*, at 220, 231.

ticularly as the key to the resolution of recognizably very widespread problems of state anarchy and misgovernment. Although she accepts that international law does not prohibit secession (125), her general preference is that secession by minorities can only provoke further secessions within the minorities. There can be no right to secession. Instead, one should insist that the right of self determination allows choices as to political and economic systems within the existing boundaries of the state (123–5). While this may be prudent advice in a particular context, theoretically Higgins is leaving out a systematic, historical dimension to the problem. Raymond Aron explains this convincingly. The language of self-determination is in flagrant contradiction with a traditional international law which occupied itself with concepts of property and sovereignty. Quarrels between states and within states are about the attachment of particular populations to particular states rather than to others, and about the desire of populations to form new states. History offers few examples of peaceful disintegration of states or empires.[20] The origin of states is like the origin of constitutions. One forgets that the origin of collectivities lies in force.[21] Modern history marks a dialectic between entities usually established originally by military force and modern nations which struggle to find an equilibrium between the political (what is possible) and the cultural (the totality of beliefs and practices of a group).[22]

From this perspective, Higgins' definition of human rights, given its central place in her system, is a harkening back to the rule of law of a constitutional monarchy (viz. human rights are demands of a particular intensity made by individuals *vis-à-vis* their governments, 105). In so far as international law has been understood as a law among states there is a sea-change in political meaning which international lawyers have to confront. In a path-breaking study, Bartelson outlines how in the classical epoch of state sovereignty, Law, as any other significant political meaning/symbol, was defined by the detached, mysterious Sovereign (of Descartes and Hobbes) in an exclusive, authoritative fashion. Now it is recognized that the exercise of naming – of which legal naming, the acceptance of obligation, is merely a part – is directly related to language and the history of the nation. It is no longer a matter that mysterious sovereigns, detached and separate from society, can determine meanings by legal fiat, by using words to reflect their exclusive monopoly of physical power and capacity to coerce.

Instead, man emerges himself as the sovereign creator of his representations and his concepts. Words are not there, as with Descartes, to represent passively, as if by mirroring, something external to the subject. It is the activity of the subject itself which creates its own world of experience and gives words to it. Language reflects the experience of an individual, but also of the tradition of a collective political being. Therefore, language becomes subject to interpretation. Language in its dense

20 R. Aron, *Paix et Guerre entres les nations* (1962, 1984) 712-715.
21 *Ibid*, at 721.
22 *Ibid*, at 736.

reality is able to tell us the history of the institutions signified by the words. The world of institutions is made by men and therefore can be reached as a mode of self-knowledge.[23]

Higgins is, in a number of respects, very close to Bartelson. The strongest part of her book is its authoritative exposure of the breakdown of a meaningful international legal order based upon an exclusive production of legal meaning by states or state-based international institutions. At the same time, the openly passionate, committed style of her argument makes it easy to imagine or to reconstruct the type of vigorous dialectic exchange of views which MacIntyre wishes – as it is hoped the immediately preceding discussion of paradigms illustrates. The only precondition for such debate is a willingness to state one's own position openly and to challenge one's opponent's. Apparently, personal views can take on a more definite shape upon challenge.

However, there are theoretical loose ends in Higgins' work, about whose possible resolution the reviewer will attempt some speculation. Higgins' adherence to the MacDougal approach is technical rather than ideological or epistemological. While she agrees with its critique of a rule-oriented approach to law, she is not really committed to its programme for authoritative decision-makers. Higgins distances herself from its usual policy prescriptions – of an interventionist nature (6–7). Instead, her sympathy is with the individual: 'Everyone is entitled to participate in the identification and articulation as to what they perceive the values to be promoted'(10). The difficulty, which she finds deeply frustrating, is that states appear to continue to control the circumstances in which individuals can in fact participate in the international legal order. She does, however, stress strongly that there is no inherent reason why the individual should not be able directly to invoke international law and to be the beneficiary of it (53–4).

A combination of Bartelson and MacIntyre can serve to complete the picture which Higgins draws. The question remains whether the exercises they recommend – the clash of paradigms illustrated at the beginning of this section – can be called legal reasoning, since it is agreed to challenge the idea that law is a product of the will of the state. However, such questioning, i.e. whether one is abandoning the field of legal professionalism, will not be a problem for Higgins since she stresses the dimension of personal responsibility for decisions. Higgins appears to have identified herself as an individual engaged for human rights and not as a member of a governing elite of a world power concerned to guarantee conditions of world governance. Bartelson complements this perspective by stressing the historicity of individual perspectives and MacIntyre brings to the fore the importance of a willingness of individual perspectives to confront one another.

23 J. Bartelson, *A Genealogy of Sovereignty* (1995) 188-201.