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The Promise of Economic Rights and the Welfare State

Zehra F. Kabasakal Arat
Purchase College, SUNY

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The Promise of Economic Rights and the Welfare State

Abstract

A review of:

Labour Left Out: Canada's Failure to Protect and Promote Collective Bargaining as a Human Right. By Roy Adams. Ottawa: Canadian Center for Policy Alternatives, 2006.

and

The Welfare State Nobody Knows: Debunking Myths about U.S. Social Policy. By Christopher Howard. Princeton: Princeton University Press, 2007.

and

Economic Rights in Canada and the United States. Edited by Rhoda E. Howard-Hassmann and Claude E. Welch Jr. Philadelphia: University of Pennsylvania Press, 2006.

Keywords

Human rights, Economic rights, Welfare, Canada, United States, Labor rights, Social democracy

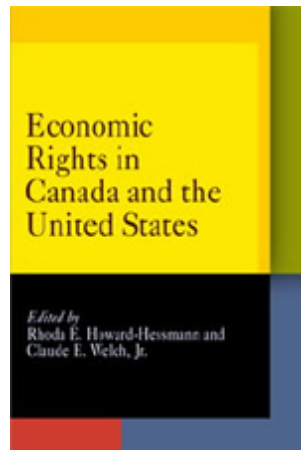
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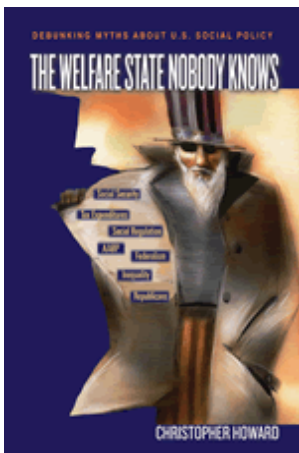
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The Promise of Economic Rights and the Welfare State

By Zehra F. Kabasakal Arat



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Economic Rights in Canada and the United States. Edited by Rhoda E. Howard-Hassmann and Claude E. Welch Jr. Philadelphia: University of Pennsylvania Press, 2006.

The International Bill of Rights, which includes the Universal Declaration of Human Rights (UDHR, 1948), the International Covenant on Civil and Political Rights (ICCPR, 1966), and the International Covenant of Economic, Social and Cultural Rights (ICESCR, 1966), embodies a wide range of human rights. The universalism, interdependency, and indivisibility of these rights have been reaffirmed at the World Conferences on Human Rights, organized by the United Nations (U.N.) and held in Teheran (1968) and Vienna (1993), and in various U.N. resolutions. Yet, there has been resistance to accepting the full scope of human rights articulated in international documents, and civil and political rights have been privileged. Economic, social and labor rights tend to take a back seat in international discourse in many countries, including Western democratic states that often present themselves as the flagship of human rights.

A widely shared belief is that international human rights are a product of Western culture and philosophies, although the counter-arguments and evidence have been compelling (Arat 2006a). Some scholars not only trace the origin of human rights to the Western liberal tradition, but also claim that only liberal social democratic regimes reinforced by welfare policies are compatible with human rights (Howard and Donnelly 1986; Donnelly 1989; Howard 1995). Their arguments, of course, are based on the evolution of liberal theory and changes in the function of the state in liberal, Western societies. As Liberalism has evolved to become a more inclusive and less discriminatory political theory, liberal democratic states in advanced industrial countries became

welfare states that have been relatively more successful in realizing several social and economic rights for large segments of their population.

Writing in the mid-twentieth century, students of Europe pointed to a gradual rise and recognition of certain rights. For example, T. H. Marshall noted that

it is possible without doing much violence to historical accuracy, to assign the formative period in the life of each [category of rights] to a different century—civil rights to the eighteenth, political to the nineteenth and social to the twentieth. These periods must, of course, be treated with reasonable elasticity, and there is some evident overlap, especially between the last two (1964: 74).

Similarly, Seymour Martin Lipset identified major issues encountered in Western societies as the place of religious institutions in the society, extending “citizenship” to the lower strata, and the distribution of national wealth. He noted that the religious issue “was fought through and solved in most of the Protestant nations in the Eighteenth and Nineteenth Centuries” and the “citizenship,” or “political rights,” issue was resolved “in various ways around the Twentieth Century,” and the “only key domestic issue” still waiting to be resolved (in the post-World War II era) was “collective bargaining over differences in the division of the total product within the framework of a Keynesian welfare state” (1959: 92-100).

What these scholars observed as an unfolding process is now considered complete by some of our contemporaries. For example, Jack Donnelly argues that “the welfare state has largely ended controversy over the idea of economic and social rights” (1989: 30-31). According to Donnelly, “the West has been pretty successful, not merely comparatively but absolutely, in progressively implementing economic and social rights” (2005: 1). He sees that the only remaining problem with Western states is their “reluctance, most notably on the part of the United States, to extend domestic commitments to economic and social rights aggressively into international human rights policies” (2005: 21).

The three books that constitute the focus of this review essay tend to disagree with Donnelly’s favorable assessment of Western states. They critically examine social policies in Canada and the United States (U.S.) and address their shortcomings in fulfilling economic, social, and labor rights. Focusing on labor rights in Canada, Roy Adams’ Labour Left Out intends to document how the country has failed to protect collective bargaining as a right. In fact, nearly two-thirds of this short book, originally written as a report, is spared for appendices that include numerous documents. Economic Rights in Canada and the United States is an edited volume that includes substantial data and analyses. Although nearly half of the eleven chapters are comparative, the editors Rhoda Howard-Hassmann and Claude E. Welch specify the purpose of the book as “not explicitly to compare Canada and the United States” but “to show that both countries are derelict in their protection of economic rights” (12). Similarly, Christopher Howard’s The Welfare State Nobody Knows is not written to provide a cross-national comparison. The book offers an in-depth analysis of the U.S. welfare system and, as specified in its subtitle, it is undertaken with the purpose of “debunking myths about U.S. social policy.” However, in order to support his main thesis, that the U.S. welfare policies are more generous and serve a much more sizable population than what people tend to believe, Howard engages in numerous, mostly statistical, comparisons of advanced industrial democracies.

The three books not only compel us to compare and assess the relative success of Canadian and American social policies, but the emphasis they place on the shortcomings of these two countries in fulfilling economic rights or protecting labor rights also prompts additional interrelated questions: (1) Can we rely upon welfare policies as effective tools for advancing economic rights? (2) Would recognizing the full spectrum of human rights in law and making economic rights justiciable serve as a better strategy? (3) Are there structural obstacles that have to be recognized and removed? I will contextualize the arguments and contributions of these books under *four* headings, starting with a brief comparison of the two countries and then continuing with a discussion of the above mentioned three questions.

Comparing Canada and the United States: How Successful Are They?

Economic Rights in Canada and the United States, as a whole, makes a convincing case that North American states lag behind the welfare states of Europe in recognizing social and economic rights, even though Canada *appears* to be doing relatively better than the U.S. In The Welfare State Nobody Knows, Christopher Howard's comparison of different measures of social spending supports this view as well. For example, both Canada and the U.S. appear on the lower end of the list of seventeen countries compared on the basis of their net social spending as a percentage of Gross Domestic Product (GDP): with 20.7 percent, Canada ranks twelfth; and with 15.8 percent, the U.S. ranks sixteenth. However, taking into consideration other social policy tools, such as tax exemptions for low income people and the variety of tax expenditures (e.g., for education, health, and housing), Howard shows that Canada's spending goes down to 18.7 percent and the U.S.'s spending goes up to 16.4 percent (15). While these adjustments do not affect the ranking of the two countries, when compared on the basis of the net social spending per person, both countries move up; but more interestingly, the U.S. outranks Canada: spending \$4,809 per person, the U.S. ranks ninth, while Canada ranks eleventh with \$4,443 (24).

Of course, larger budgetary allocations do not always result in better welfare. Despite its lower spending, Canada outranks the U.S. in terms of performance and public attitude (Howard-Hassmann and Welch: 16-17). The former point is also supported by Christopher Howard, whose book advances the argument that though not small in size, the U.S. welfare system has failed to curb inequalities and poverty. In fact, the U.S. recorded the highest income inequality score (Gini Index = 40.8)¹ among the top twenty-one countries on the human development scale (United Nations Development Programme 2006: 335). During the last two decades, the U.S. has had the highest, or the next-to-highest, poverty rates among thirty-one developed countries (Pugh 2007). Persistent inequalities and discrimination are noted also by those who study Canada, but where available, outcome comparisons almost always portray Canada in a more favorable light (Howard-Hassmann and Welch: 17). For example, assessing the right to health care in the U.S. and Canada, Virginia A. Leary notes that "the health status of minority population is far below that of the majority" in both

¹ The Gini index score for income distribution is typically calculated on the basis of income shares of quintiles, and it ranges between 0 and 100. The higher score stands for higher income inequality, and advanced industrial countries tend to have Gini scores in low to mid-30s.

countries (Leary in Howard-Hassmann and Welch: 134). Yet, she adds that: “In the United States, the problem of health status is even more striking than in Canada—the poor and minorities have the worst health status—but they are also among the many Americans that lack even the basic health care generally available to minorities in Canada” (Leary in Howard-Hassmann and Welch: 136). The only area of exception seems to be the rights of the disabled, as Canada lacks a national disability law akin to the 1990 Americans with Disabilities Act of the U.S. (Armstrong, Noble and Rosenbaum in Howard-Hassmann and Welch: 154).

Regarding public attitudes, Canadian citizens and government officials appear to be more favorably disposed to state intervention and delivery of social services than Americans. Howard provides a neat table that compares public opinion on a wide range of social issues and government responsibilities that shows that the percent of Canadians who favor government intervention significantly exceeds that of Americans on all but one item (113). This may not dispel the argument that there is “no indication that ‘ordinary’ Canadians and Americans view economic rights as of the same importance as civil and political rights” (Howard-Hassmann and Welch: 19) but points to the differences in ideological dispositions. Canadian governments have also been more responsive to the normative advancement of human rights in the international arena and more willing to enter into treaty obligations and accept international monitoring. While the U.S. has ratified only half of the eight major human rights instruments, and most of them rather recently, Canada has ratified seven, most of which it ratified soon after the adoption of the treaty by the U.N. General Assembly (see Office of the High Commissioner of Human Rights). As noted by Atleson, the U.S. also failed to ratify most of the conventions adopted by the International Labour Organisation (ILO), as well (Atleson in Howard-Hassmann and Welch: 147).

The U.S. has been particularly reluctant to accept social and economic rights. While a few leaders have advocated for them—for example, in January 1944, President Franklin Delano Roosevelt called for “a second Bill of Rights under which a new basis of security and prosperity can be established for all regardless of station, race, or creed” (Howard-Hassmann and Welch, Appendix 3: 213) — successive administrations and Congresses invoked human rights mainly in relation to foreign policy and limited their definitions of human rights to civil and political rights. Weissbrodt’s chapter provides an informative historical overview of these issues; however, he tends to see President Carter in a misleadingly favorable light. Treating a single speech by Secretary of State Cyrus Vance as representative of the approach and policy of the Carter administration, the author makes the false claim that the Administration recognized economic rights (Weissbrodt in Howard-Hassmann and Welch: 46, *n*22). It is true that compared to his predecessor and all successors, President Carter and his cabinet were more willing to ratify international human rights treaties and were more receptive to the issues involving social and economic rights, but these were never recognized as “rights” and definitely not considered equals to civil and political rights. Those issues that fell into the category of social and economic rights were repeatedly referred to as “aspirations,” and the international advocacy of human rights was embraced mainly in an “anti-communism” rhetoric and used to criticize the Soviet Union and Eastern Block countries (Arat 1999; 2006a: 112).

Nevertheless, in the U.S., Democrats, as opposed to Republicans, have tended to be more committed to improving public welfare, with perhaps the exception of the Clinton administration. His highly acclaimed “welfare reform” legislation of 1996 revamped the “welfare system as we know it,” but it pushed thousands of the most vulnerable children of the country into a worse situation. A

detailed impact assessment, provided by the Institute of Women's Policy Research, pointed to a few disturbing changes that took place between 1996 and 2000: the average income dropped for families living in extreme poverty; the number of uninsured poor children living in single-parent households increased dramatically; and the latter group further experienced a decline in their access to income assistance Temporary Assistance for Needy Families (TANF), Medicaid, and food stamps (Lyter, et al. 2004). Food insecurity and hunger, which had started to decline in the mid-1990s, shifted to an upward trend at the end of the decade, and by 2002, the percentage of households experiencing food insecurity and hunger reached, respectively, 11.1 percent and 3.5 percent, (Rodgers 2006: 198). An analysis of the 2005 census data reveals that approximately sixteen million Americans lived in *severe* poverty, marking a 26 percent increase from 2000 to 2005 (Pugh 2007).

The broad negative impact of the reform on hunger and homelessness in U.S. cities was brought up at U.S. Conference of Mayors as early as 1999 (Mittal and Rosset 1999: 87). Christopher Howard's preoccupation with "debunking the myths," with claims such as "programs for the poor are not always poor programs," (92) prevents his near seminal work on the U.S. welfare system from paying adequate attention to the consequences of welfare reform. However, in a chapter entitled "Welfare Racism and Human Rights," Kenneth J. Neubeck provides a review of the reform, as well as the discriminatory aspects of the U.S. welfare system (Neubeck in Howard Hassmann and Welch).

The U.S. welfare reform had international ramifications as well. For example, during the 1996 World Food Summit, the head of the U.S. government delegation refused to support the language of the final document on "the right to food" because accepting the rights language would place the new U.S. welfare reform law in violation of international law. At the Habitat Conference, held earlier that year in Istanbul, the U.S. government stood alone in rejecting the right to housing. Two years later, in December 1998, the United States was the only country to cast a negative vote on the U.N. General Assembly resolution that urged all countries to eliminate obstacles to development and the protection of economic, social, and cultural rights along with civil and political right.² In sum, although a Democrat who cultivated an image of a compassionate leader who could relate to the minorities at home and the disadvantaged abroad, Bill Clinton and his Administration maintained policies and rhetoric that effectively denied social and economic rights.

The U.S. attempt to block international efforts to promote economic and social rights became more obvious after George W. Bush assumed the office of president. At the Millennium Summit meeting—held in New York in September 2005, five years after the U.N. adopted the Millennium Declaration and the Millennium Development Goals (MDGs)—U.S. Ambassador John Bolton demanded hundreds of changes in the draft of the outcome document and objected to increasing the U.S. development aid commitment from approximately .16 percent of the GNP, to .7 percent by 2015. All other developed countries have pledged to meet the .7 percent goal. In *Economic Rights in Canada and the United States*, it is argued that President Bush's decision to increase funding for programs that aim at curbing the spread of HIV in some African countries is taken as an indicator of change favorable to human rights (Forsythe and Heinze in Howard-Hassmann and Welch: 69).

² For the examples listed in this paragraph, see Mittal and Rosset (1999: xii–xiii).

However, such an assessment omits the consequences of the U.S. government's "global gag rule," which prevents the flow of U.S. aid to government and private agencies that have anything to do with abortion, thus effectively denies funding to many reproductive health organizations that also deliver anti-HIV/AIDS programs. This policy, along with the Bush administration's reliance on abstinence as the proper birth-control and HIV/AIDS prevention method (meaning no support for providing access to condoms), is believed to be at least partially responsible for the recent upward trend of HIV cases that had been declining in parts of Africa (Baird 2004).

Nevertheless, while it should be noted that although the U.S. government's resistance has been unmatched by any Western industrial state, the differences in governments' rhetoric or treaty ratification rates may not mean much. When we examine their policy outcomes and implementation, they all appear reluctant to take serious steps to eliminate poverty and advance human rights. The 2005 assessments of the MDGs, for example, indicate that the actual global commitments have been far from satisfactory, and the benchmarks set for 2015 are not likely to be met. Similarly, the significant difference in the treaty ratification rates of Canada and the U.S. does not result in equally impressive differences in their fulfillment of human rights expectations. On labor rights, Roy Adams notes that although Canada fully supported the 1998 ILO Declaration of Fundamental Principles and Rights at Work, neither the federal nor state governments devised plans to fulfill the country's pledge to increase workers' collective representation and right to collective bargaining; more than half of Canadian workers lack collective representation (35-43).

As underscored by Howard-Hassmann and Welch, forming and joining unions are human rights, and unions are essential not only for the protection of labor rights but also for the advancement of social and economic rights (19). Perhaps it is not accidental that countries that have strong unions have also developed more generous welfare policies.

Historically, unionization rates increase as countries industrialize. However, according to an ILO survey that included ninety-two countries, more than seventy countries experienced a sharp decline between 1985 and 1995, and in only fourteen countries did the union membership rate exceed 50 percent of the national work force (ILO 1997). Increasing layoffs and the downward spiral of wages are intertwined with the predicament of unions. In the U.S., where unions have never been strong, union membership fell from a low 20 percent in 1983 to about 12.5 percent in 2004 (ILO 2005).

In the absence of high levels of unionization and strong unions, protective labor laws become ineffective and allow extremely exploitative work arrangements. Sweatshops have become increasingly common, and low wages and inhumane work conditions in these places led their employment practices to be characterized as "new slavery." Kevin Bales (2004) employs the term "slavery" to depict situations worse than sweatshops, and to describe the condition of twenty-seven million people who are held and forced to work against their will, lacking all forms of freedom, and completely controlled by their "slaveholders." The destination of many trafficked people is industrial states and, as well documented by Robert J.S. Ross (2004) and Lance Compa (2005), sweatshops are not limited to the developing world; some industries in the U.S. depend on them as well. The literature on sweatshops and new slavery attributes their ascent to the combined effects of globalization and weakened unions.

In sum, Canada seems to take economic and labor rights more seriously, and it fares better than the U.S. But the effectiveness of Canadian and other welfare states' social policies in fulfilling economic rights is another question.

How Effective are Social Policies in Welfare States?

In earlier writings, Howard-Hassmann saw the potential of protecting the full spectrum of human rights in liberal social democratic states, claiming that they take both sets of rights (civil-political and social-economic) seriously (Howard 1995: 1). Howard-Hassmann and Welch maintain this view in Economic Rights in Canada and the United States. The editors present a list of social policy goals and objectives, which they see as constituting an agenda for *social democracy*, to be followed by Canada and the U.S. (21). The suggestions for *both* countries include: public policy addressing poverty by allowing for positive discrimination; more progressive income taxes along with "negative" income taxes; safety nets; affordable, universal child care; improved and universal state-financed and private pension plans; fair and adequate wages; healthy work environment; and workers' right to freedom of association. In order to be able to catch up with Canada, it is further recommended that the U.S. adopt universal health insurance and a national system of paid parental leave. The editors look to the Western European states with strong social democratic traditions as models, while acknowledging that these systems have not been fully effective and have recently demonstrated a pattern of retrenchment in their social welfare commitments (21-22).

Indeed, a country like the Netherlands, which has a strong "social democratic tradition" and rhetorical commitment to social and economic rights may perform significantly better than "the corporatist German system," which in turn outperforms the "liberal regime" of the United States, in meeting a range of social and economic needs (Goodin et al. 1999). Yet, as noted in Peter Baehr's chapter, the Netherlands still remains far from being "a Walhalla of economic, social, and cultural rights" (Baehr in Howard-Hassmann and Welch: 202).

Some contributors to Economic Rights in Canada and the United States offer explanations as to why welfare policies have failed to fulfill social and economic rights and also point to the downward trend in welfare states. Noting that welfare policies are "optional public policies undertaken at the discretion of authorities," Forsythe and Heinze allude to the weakness in the legal foundations of welfare policies (Forsythe and Heinze in Howard-Hassmann and Welch: 59). In her comparative chapter on health care, Leary calls attention to the limitations of addressing health issues by only utilizing traditional health policy. She aptly argues that a generous welfare state may provide universal health care but would still fail to fulfill the right to health because the latter is a broader concept; structural and cultural elements that sustain poverty and discrimination would affect health conditions and the ability to access the health care system (Leary in Howard-Hassmann and Welch: 135-136).

In addressing the failure of welfare policies in fulfilling economic and social rights, one also needs to question the goals of welfare policies. It is important to recall that starting with Bismarck, political leaders employed social policies to meet a range of goals that had nothing to do with respect for human rights. Politicians have often used welfare policies as tools of social control to prevent

civil strife and revolutionary uprisings, curtail forces of economic depression, or enhance the workforce and workers' productivity. In his chapter on labor rights, James Atleson provides a similar list of expected benefits from recognizing workers' rights to unionize and collective bargaining, by drawing from the preamble of the U.S. National Labor Relations Act of 1935 and speeches delivered by Senator Wagner in support of the Act. The list includes reducing industrial strife that interfered with interstate commerce; strengthening the economy with "independent unions that would insist on a more equitable division of profits, thereby maintaining public purchasing power;" and creating "greater economic stability" by creating "a better economic balance between conflicting forces" (Atleson in Howard-Hassmann and Welch: 137-138).

The *inadequacy* of welfare policies in meeting social and economic rights is heightened by the *instability* of welfare systems. As the New Deal policies have been undone in the U.S. since the 1980s, some people in Canada recently started to question the merits of its universal health care plan. In Europe, the spread of neoliberal economic discourse, which calls for privatization and demands labor flexibility to maintain competitiveness in global markets—meaning reducing labor costs and job security—has threatened labor rights and all social services; until recently, such services have been taken for granted, with the expectation they would be expanded not retrenched. However, European welfare states have already started to be "adjusted" with reductions in pension plans and changes in labor protective provisions of laws. Ironically, while many Eastern European countries are interested in joining the European Union (E.U.), mostly with the hope of reaching the E.U. countries' standard of living, they find themselves drawn into neoliberal economics. The 1993 Copenhagen criteria, set by the E.U. as conditions to be met by countries that seek membership, include respect for human rights (understood mainly as civil and political rights), along with "the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union" (European Council 1993: 13).

Observers note that the economic requirements of the E.U. are not much different than the structural adjustment policies of the International Monetary Fund (IMF) (Eder 2003), which subscribes to "market fundamentalism" (Stiglitz 2003). There has been a growing literature on the negative impacts of the economic prescriptions of the IMF and the World Bank (also known as "Washington Consensus," since these two agencies located in Washington D.C. and work closely with the U.S. Treasury Department) on the economic and social rights in developing countries, and Forsythe and Heinze acknowledge it briefly (Forsythe and Heinze in Howard-Hassmann and Welch: 63). A new empirical study further reveals that the negative impact of these policies is not limited to social and economic rights but applies to civil and political rights as well (Abouharb and Cingranelli 2007). The E.U. may appear to be torn between "market-making and market-redressing," but the balance has already shifted in favor of market-making (Menéndez 2003: 2-3). The full impact of that shift on the human rights conditions is yet to be seen, but the existing evidence is not promising.

These observations, linked to the recent phase of globalization (Arat 2005), also pose questions about the boundaries of national and international politics. Can the welfare state, which is a "national" construct (Balibar 1994), continue to function in the same manner in this era of highly integrated markets guided by international capital? Or, do we need to search for transnational solutions and seek transnational democracy? Can the capital-driven globalization process be counterbalanced or subverted by a bottom-up globalization (Falk 1999) that is informed by international human rights norms? Since answering these complex questions would require writing

some new volumes, we can turn to the third question posed by the three books that constitute the focus of this essay.

Would Bringing in the Courts and Making Economic Rights Justiciable Help?

The acknowledgement of the weakness of welfare policies and the volatility of the welfare state requires a search for alternative mechanisms and strategies. Several authors in Economic Rights in Canada and the United States suggest making economic and social rights justiciable by incorporating them into law and using courts as a venue of protection. Brian Orend writes

A human right is a general moral right that every human being has. Sometimes it finds legal expression and protection, sometimes not. This legal variability does not undermine the existence and firmness of the moral right, and it actually provides focus for contemporary human rights activism, where the goal is often to translate the pre-existing moral claims into effective legal entitlement (Orend in Howard-Hassmann and Welch: 26).

Although bringing human rights under legal protection is always desirable, legislation of human rights or incorporation of human rights goals into law can be politically difficult and may not be particularly effective. Enforcement problems are well known in the case of international human rights law; neither the ILO nor the U.N.-led human rights regime has strong enforcement mechanisms. On the other hand, domestic law, not facing qualms about sovereignty that paralyze the international system, can be implemented more effectively.

Vic Satzewich indicates that immigrant rights in the U.S. and Canada, for instance, were expanded by courts but restricted by governments (Satzewich in Howard-Hassmann and Welch: 183). On the other hand, several other authors mention that laws that make implicit or explicit references to economic rights are not used to claim rights in courts, or when invoked, courts tend to interpret laws narrowly and fail to safeguard economic rights. For example, discussing the weak protection of labor rights in the U.S., Atleson contends that “[t]he weaknesses of the NLRA, stemming primarily from its interpretation rather than text, are well known” (Atleson in Howard-Hassmann and Welch: 143) and draws attention to the increase in unfair labor practices. Employers have been “increasingly violating employees’ rights, especially the right to engage in union activities,” which is protected in law (Atleson in Howard-Hassmann and Welch: 144). As long as social forces work against the law and political will is not strong enough to enforce it or lacking altogether, legal protections exist only on paper. Problems are not limited to the lack of support within the legal and political systems. On the right to shelter, for example, it is noted that courts in Canada and the U.S. are not unwilling to rule to protect the right, but the research finds “little evidence that the issue of homelessness has come before the courts except in New York” (Carroll in Howard-Hassmann and Welch: 81).

In sum, as briefly stated in a few chapters, using courts and making economic rights justiciable may help improve human rights conditions, but they also imply that other social and cultural measures have to be put in place to make people *aware* of their legal rights and to be *able* to claim

them by using the judicial process. Moreover, we are all painfully aware that judicial systems have not been color blind or indifferent to class differences, and economic and social inequalities limit people's access to litigation and the quality of legal aid they can afford. This takes us to the final question on the structural barriers to the fulfillment of human rights.

Structural Obstacles: Is Capitalism a Problem?

All three books, implicitly or explicitly, refer to structural problems that limit the effectiveness of social policies in addressing economic rights or reducing poverty and inequalities. Although authors who point to “the structure” are not always clear on what they mean, in their introductory essay, editors Howard-Hassmann and Welch label the problematic structure in question as capitalism. They praise capitalism for being productive (3, 20) and value market economies for being “the most efficient known to mankind” (18); yet they also acknowledge that capitalism divides “the population into owning and nonowning classes” (3) and breeds income and “class inequalities—inequalities in access to basic economic rights—that must be ameliorated by social policy” (18). However, they treat these problems related to capitalism as not ontological but rather exogenous, as amendable without altering the essence of the system. In their own words:

These inequalities are not inevitable consequences of the way capitalist societies organized. They are the consequences in large part of conscious political decision making, often by individuals with their own material self-interest in mind (3).

This statement and their brief discussion of capitalism are riddled with contradictions and overlook counter points. If capitalism is more productive and able to meet needs due to its productivity, then would the authors justify neoliberal policies? After all, neoliberal economic policies are typically based on the claim that productivity can be maintained only under *free* market rules and *labor flexibility*, and therefore, there should be minimal or no government regulation and protective labor laws should be relaxed. There is also no attempt to explain why the increase in the productivity of labor (experienced practically in all industrial societies, including the U.S., in the 1990s) did not result in increased wages but led to increases in lay-offs, part-time positions with no benefits, low-paying jobs in the service and informal sectors, and a decline in *real* income for the majority. Most importantly, the brief and hazy analysis ignores the causal link between economic means and decision-making power, which has been problematized by socialist and anarchist theorists at least since the eighteenth century and well established in more recent research on interest groups and political participation. Contemporary critics of liberal democracy also revisit the false sense of equality brought by universal suffrage, noting that the masses, living in poverty or struggling for livable wages, are effectively disenfranchised (Pateman 1980, 2004; Arat 1999; Goodhart 2005).

A bolder analysis of the structural problems is offered in a chapter in Howard-Hassmann and Welch, written by Mary Bricker-Jenkins and Willie Baptist, directors at the Kensington Welfare Rights Union (KWURU), in an impoverished district of Philadelphia. “Standing in Kensington,” they write, “it is easy to see clearly that poverty is not a by-product of production, but the essential raw material of production in our economic system, and that it can and must be ended” (Bricker-Jenkins and Baptist in Howard-Hassmann and Welch: 117). They define the current problems of crumbling

housing, violent crimes, and a range of physical and social insecurities as “the effects of deindustrialization” and “conditions and conundrums of post-industrial poverty” (104). While they consider the safety net provided by welfare programs as “*necessary but not sufficient* for the ultimate security” of people, they lament “the loss of the welfare state” (108). Nevertheless, they think the strategies of the past, designed to deal with the problems of an industrial economy, are not relevant to the post-industrial state and emphasize the need for “a transformative strategy” (106). Resembling a Marxian prediction, they find optimism in the spread of misery; they believe the erosion of the middle-class—the majority being “one accident or illness away from the soup kitchen and homeless shelter”—has met the objective conditions for the rise of a broad-based, “mass social movement” that would unite people of all colors (108). They describe organizational strategies that should be used to mobilize people but fall short of defining the objectives of the movement or the steps to be taken to meet them.

Conclusion

Can the welfare state promote economic rights? Not focusing on human rights, Christopher Howard is understandably not engaged in any philosophical discussion of human rights and their connection to the welfare state. However, other authors who examine the issues from a human rights perspective also elude tough subjects, such as questioning the compatibility of the welfare state and capitalism with human rights.

Answers to these questions would, of course, depend on the definition of key concepts and their underlying principles. A careful examination of international human rights, as articulated in the International Bill of Rights, reveals that human rights are promoted to ensure *equality in human dignity* and, as I argue elsewhere, this particular articulation of human rights rests on the axis of anti-discrimination³ and addresses the political and economic dimensions of power accordingly (Arat 2006b).

Welfare states and their policies, focusing on the delivery of some basic needs without addressing the structure that continuously creates a class of people who need such state-rendered benefits, maintain a system of dependency that undermines equality in dignity. The indignity inflicted by welfare policies is more evident in the case of the U.S., which sustains a culture that stigmatizes welfare recipients (Davis 2006). Neubeck’s review of U.S. welfare reform, in the edited volume, is clear on the “demonization of welfare recipients” (Neubeck in Howard-Hassmann and Welch: 94) and on the link between the anti-welfare posture and “welfare racism.” Christopher Howard notes that Americans tend not to include social security, unemployment, disability, and other social policies that serve a large segment of the population in their understanding of welfare policies and use the term “welfare” to address the means-tested benefits targeting the poor.

³ For example, see Articles 13(1)(b), 55(c), and 76(c) of the U.N. Charter; Article 2 of the Universal Declaration of Human Rights; Articles 2, 3, 13, of the International Covenant on Economic, Social and Cultural Rights; Articles 2, 3, 4, 20, 24, 25, 26, 27 the International Covenant on Civil and Political Rights.

Social policies may help to achieve human rights goals, if they meet certain criteria. In addition to effectively meeting basic needs, policies should target maintaining *equality in human dignity*. Increasing access to food by granting food stamps may meet the effectiveness criterion, if the stamps are generous and provided in adequate quantities, but such policies would fail on the equality in dignity criterion, if the provisions only target a certain segment of the population. By the same token, the proposal offered in Orend's chapter, "a program providing a guaranteed minimal income to those who genuinely cannot provide material subsistence for themselves" [*à la* Milton Friedman's (1962) negative income tax] would help to reduce the bureaucracy and cost of providing various needs (e.g., housing, food) through separate programs (Orend in Howard-Hassmann and Welch: 34), but it would violate the principle of equality in dignity.

An assessment of the compatibility of human rights and capitalism is necessary, and a thorough assessment would require juxtaposing the principle of equality in human dignity with the characteristics of capitalism (e.g., private ownership of the means of production; contractual labor; individual responsibility and, most important, production aimed at profit maximization). In international human rights law, slavery and servitude are banned for violating human dignity (e.g., Article 4 of UDHR and Article 8 of ICCPR). Thus, slave economies and feudalism are considered incompatible with human rights. However, perhaps due to the ambiguous treatment of property in international human rights law (Arat 2006b), capitalism has not been subject to a similar scrutiny. Also, the productivity of capitalism, problems exhibited in state-socialist systems, and the ultimate collapse of the Soviet model might have reinforced some people's confidence in capitalism and led others to accept it as inevitable. But any serious attempt to protect economic and labor rights would require a systemic assessment of all challenges, including the system itself. In other words, advocates of human rights need to pay more attention to the *political economy* of human rights, as well as *politics*, because the struggle for human rights is a power struggle and involves questions about who gets what and how, who pushes for change, and who resists.

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Zebra F. Kabasakal Arat is Professor of Political Science and Women's Studies at Purchase College, SUNY. She explores human rights from an interdisciplinary perspective, with an emphasis on the interdependency and indivisibility of human rights. Her publications tend to focus on human rights and women's rights in Turkey and other Muslim populated states. Her recent books include: Non-State Actors in the Human Rights Universe (co-edited with George Andreopoulos and Peter Juwiler, by Kumarian Press), Human Rights Worldwide: A Reference Book (ABC-CLIO); and Human Rights in Turkey: Policies and Prospects (University of Pennsylvania Press).

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