

UNIVERSAL HUMAN RIGHTS IN A WORLD OF DIFFERENCE BY BROOKE A ACKERLY (CAMBRIDGE: CAMBRIDGE UNIVERSITY PRESS, 2008) 373 PAGES. PRICE £45.00 (HARDBACK) ISBN 9780521881265.

In a world where human rights catastrophes abound, the very idea of universal human rights realisation seems utopic — light-years away from the possible. Our repeated failures to produce effective political solutions to end human rights violations bring despair. The space between those ‘doing’ human rights activism on the ground and those theorising about human rights as a concept often appears as a gaping and unbridgeable chasm. Critical scholars agonise over the issues of how, or whether, it is possible to theorise in a world where we are aware of so much difference — and even aware that there are differences, dissent and epistemologies which we do not yet perceive. Activists have little time for such reflection and are often critical or dismissive of issues perceived as directing attention away from the pragmatic and immediately possible. It is here, in this imperfect space, that Brooke Ackerly issues a challenge to academics and activists alike, to revisit the questions, ‘what can I do?’ and ‘how shall I do it?’

An explicitly feminist project, the text comprehensively covers existing human rights theories, ranging through sources as varied as Aristotle, Douglass, Crenshaw, MacKinnon, Foucault and Sen. In this sense, it is not a widely accessible book — clearly, the intended audience is primarily scholars familiar to political theorising. Nonetheless, the purpose of the book is far from academic — *Universal Human Rights in a World of Difference* is a siren call to theorists of all shades to ensure that the ‘doing’ of human rights work is more deeply informed by theory. The question, ‘what can I do?’, prompts from Ackerly the response that we should make ‘stronger circles’;¹ that is, we must learn to engage more closely with activists in order to learn from their experiences and thus develop and refine human rights theory so as to ground human rights activism more closely in that theory.

The central purpose of the book is to build a methodology for ‘doing human rights theory’, and the underlying thesis is that we must critically examine the ways in which macro-political forces impact on the habits of daily life, such that they conceal their rights-violating implications. Because people are integrated into the social life that oppresses them, theorists need a methodology for thinking about, critiquing and changing that life such that the changes proposed respond ‘not only to the struggles and wishes of the vulnerable but also to their loves and commitments’.² To address the violations of women’s human rights, we need a theory that is critical of the cultural norms that define human such that *to be human* is to live a raced and gendered life. Those same norms now claim so much epistemological authority that a raced and gendered life is seen as beyond criticism. The task is thus to go beyond holding states and individuals accountable for violations, and to focus on transforming the underlying social, cultural, political and economic institutions and practices which are fostered by

¹ Brooke A Ackerly, *Universal Human Rights in a World of Difference* (2008) 311.

² Ibid 141.

the ways we live; only by doing this can we create the conditions for the realisation of universal human rights.³

A central theme of the proposed methodology is uncovering absences — revealing the invisible, listening to silences where they occur.⁴ Ackerly proposes a model, ‘curb cut feminism’,⁵ to enable us to do this. The curb cut model will be familiar to feminist theorists, but it is also a very neat analogy that is easily understood and appreciated by those less familiar with critical theory. By privileging the knowledge of a previously invisible group in designing solutions for existing infrastructure and future structures, we are able to design structures that benefit all. Thus, while the curb cut helps those in wheelchairs, it also assists a wide range of unexpected others we did not originally ‘see’ — those with strollers and delivery carts, those with injuries, those with lots of shopping, and the elderly. We also see that those on bicycles are keen for the opportunity to avoid dangers on the road: the curb cut is a design that enables the freedom of movement for many, not just the disabled. As Ackerly points out, a world designed for the visible norm will, by design, fail to accommodate most of the population — almost all of us, in our own unique way, fall outside of the norm. Thus, curb cut analysis assumes that to answer the question, ‘are there universal human rights?’, we need to start by interrogating women’s specific experience of human rights violations — these violations are different in character and location from other violations.

So, how are we to analyse absence? How do we know why something is not observed? Is it because it does not exist, because it is unobservable, invisible? How do we make meaning of silence? Are the silent silenced by overt oppression; are they making political choices? Are they resisting? Have they been so habituated that the unspeakable no longer seems worthy of speech? Is silence evidence of a failure on our part to enable communication? Ackerly argues that we require a methodology for hearing the silence, as well as seeing the invisible: ‘this openness is actually open-endedness: open to the experiences of absence, of those not yet included, and thus of ideas that are not yet known, perhaps not yet formulated’.⁶

Ackerly points out that the perspective not yet imagined is more marginalised than the most marginalised perspective one can imagine, and also that the claim to be marginalised is a political claim. As a result, the task is not simply to identify an unprivileged perspective in order to privilege it, but rather to destabilise the epistemic equilibrium — to become self-conscious about the power exercised through marginalisation. While the benefits of such an analysis are unknowable at the outset, the promise is of new theoretical and practical avenues for promoting the human rights of all.

Thus, Ackerly’s ‘immanent universal human rights theory’⁷ is non-ideal (in contrast to the Rawlsian ideal theory). It is inherently incomplete and unstable, aimed at making us ‘see’ differently so that we may become aware of our responsibilities even though rights violations may be remote, concealed as a

³ *Ibid.*

⁴ *Ibid* chs 5–6.

⁵ *Ibid* 141.

⁶ *Ibid* 163.

⁷ *Ibid* chs 5–6.

by-product of individual choice, or masked by social, political or economic habits and conventions. This approach is not without precedent; as Ackerly herself points out, it comes close to the interactive process set out by Amartya Sen.⁸ Sen argues that we can build a theory of human rights by examining what would survive in public discussion, given a reasonably free flow of information and an uncurbed opportunity to discuss differing points of view. However, Ackerly extends this 'domain of continued dispute' by arguing that we must examine the ideas that survive:⁹ by what means did they survive, and what role did those ideas play in rendering other ideas invisible? Curb cut epistemology assumes that there are, and will always be, human rights violations that are beyond our sight, or our political will to end them.

Ackerly's human rights theory leads us to the conclusion that we have a commitment to seek out and mitigate not just the violations that we can see, or are currently in a position to end. Just because we cannot come up with a good political solution to end violations does not mean that we are not morally obligated to *try*: the uncomfortable conclusion is that we are normatively obligated to keep trying, though we will always be uncertain as to whether our efforts are adequate.

EMMA HENDERSON*

⁸ Amartya Sen, 'Elements of a Theory of Human Rights' (2004) 32 *Philosophy and Public Affairs* 315, 323.

⁹ Ackerly, above n 1, 205.

* BA, LLB (Hons) (Cant); LLM (UBC); PhD (Melb); Barrister and solicitor of the New Zealand High Court. Emma Henderson lectures and researches in human rights law and international criminal law in the Law School at Latrobe University.