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Philip Alston

European University Institute

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FOREWORD

COMING TO GRIPS WITH TOMORROW'S HUMAN RIGHTS AGENDA

*Philip Alston**

Until the late 1970s international human rights was featured in the curriculum of very few law schools in the United States, let alone elsewhere. Yet from well before that time the Law School of the State University of New York at Buffalo has been renowned for its human rights scholars, including in particular Thomas Buergenthal, Virginia Leary, and now Makau Mutua. The launching of a new journal, the *Buffalo Human Rights Law Review*, is a fitting tribute to this tradition.

It is also a cause for celebration that this first issue puts the spotlight more on tomorrow's human rights agenda than on yesterday's. In doing so, it focuses, albeit not in any pre-designed fashion, on the particularly important case of South Africa.

It is one of the delightful ironies of history that South Africa has made a singularly important contribution to the development of international human rights law in both its pre-apartheid and its post-apartheid incarnations. The old South Africa, infamous not only for its institutionalized racism but for its long lasting defiance of the international community's strictures, provided the occasion for initiating many of what were eventually to become the United Nations' most effective responses to massive human rights violations. Thus, for example, it was in response to apartheid that the scope of the doctrine of domestic jurisdiction was cut down to reasonable size, that the U.N. Commission on Human Rights reversed its original policy of refusing to deal with violations, that human rights began to find their way onto the agenda of the U.N. Security Council, and that sanctions came to be seen as a legitimate response to human rights violations.

Since the formal abolition of apartheid at the start of the transition to democracy and racial equality in 1994, South Africa has continued to shape the international human rights agenda, both by domestic example and by its new found international prominence as a human rights advocate. This influence is strongly reflected in the contributions to this journal.

* Professor of International Law, European University Institute, Florence; Visiting Professor, in Global Law Program, New York University; and Chairperson, United Nations Committee on Economic, Social and Cultural Rights.

Neither the contributions nor the agenda they reflect devote much attention to many of the issues which continue to dominate too much of the human rights literature. Those include the need to intervene militarily to put a stop to gross violations of human rights, the challenge of using sanctions effectively to compel compliance with Security Council edicts, the need to avoid, but where necessary to manage, the fragmentation of states, the need to monitor elections, and the importance of countering challenges to human rights based on cultural relativist objections as put forward by the governments of certain developing countries. While each of these challenges are important, the contributors of this first issue of the *Buffalo Human Rights Law Review* highlight a number of other issues of equal, if not greater, importance. They include the question of looking at our own human rights record and not only that of others (of "cleaning our own house", as one article puts it), a challenge which is addressed by several contributors in relation to refugee policy and to full and effective United States participation in the international human rights regime. The challenge of securing effective enjoyment of the human rights of women, whether in the context of anachronistic and damaging practices such as female genital cutting or virginity testing, or of reproductive health rights, is prominently addressed. The importance of domestic implementation is highlighted, with particular emphasis on the South African Bill of Rights and the role of the Constitutional Court.

The need to consider how best to promote respect for human rights in light of the impact of globalization and its accompanying policy of privatization, deregulation and a shrinking State apparatus is addressed in a case study of the gypsies in Central Europe. The importance of coming to grips with the forgotten half of human rights law -- economic, social and cultural rights -- is emphasized in two contributions, each of which draws significantly upon the precedent-setting approaches adopted in South Africa. The increasingly important role of international organizations in the promotion of human rights within their areas of expertise is considered in relation to agencies as diverse as the UN Development Programme, the World Bank and the United Nations High Commissioner for Refugees. Other important issues which will continue to be very prominent on the domestic and international agendas, and which are also addressed by contributors, include how to achieve justice and reconciliation without simply wiping clean the slate of past injustice, and how to balance the individualism of many approaches to rights with the importance of family and community.

The result is a particularly rich series of articles which shed considerable light on the principal challenges facing human rights proponents on the eve of the

twenty first century. It is to be hoped that this new journal will prosper and play a leading role in exploring this agenda in the future.

