

Humanity's Law. By Ruti G. Teitel. New York: Oxford University Press, 2011. Pp. 304. US\$35 cloth.

An erudite, ambitious and optimistic book, Ruti Teitel's *Humanity's Law* argues that a transformation is taking place in the international legal order that constitutes a fundamental paradigm shift away from the imperatives of the interstate system, the primacy of sovereignty, and an emphasis on state security to a focus on human security, individual accountability and the law of persons and peoples. Teitel cites numerous examples of statements by international human rights bodies and decisions of international courts that, she contends, comprise a new legal discourse that she names (rather awkwardly) "humanity law." As she elaborates it, "humanity law" is a framework that negotiates with—draws on, remains in tension with, and shapes—three extant bodies of jurisprudence: the law of war, international human rights law, and international criminal justice. She envisions in this "humanity law" the potential transformation of policy discourses and of the "constitutive principles, processes and values" of a putative "international normative order" (14). Many will find her detailed text and ample footnotes richly informative and her provocative argument compelling.

But Teitel's affinity for the term "framework" to describe her conception of "humanity law" bears reflection. A framework designates an underlying structure or provisional scheme, an outline without determined contents; like the framework of a house, it is a construction not yet inhabitable, but a slate of possibilities. And yet, a framework that is riddled with "tensions"—another of Teitel's favorite terms—and by the indeterminacies and contradictions she admits inhere in "humanity law," is arguably not really a functional framework at all. Accordingly, Teitel in one sense doesn't give herself enough credit for constructing this framework which, by arranging examples into a pattern, she has erected and named "humanity law." But in another sense, she overvalues her own construction by stipulating its existence as an already occurring, if not entirely accomplished, paradigm shift. Her analysis thus shifts between the descriptive, the hopeful, and the prescriptive and often hovers somewhat ambiguously between them.

In the nine broadly-conceived chapters of her book, Teitel traces a genealogy for "humanity law" from the work of Hugo Grotius to Nuremburg to the ICC; elaborates a "humanity-based" discourse that operates transnationally and challenges the legal supremacy of sovereign states; analyzes the breakdown of a series of traditional binaries that have governed the laws of war

(war and peace, combatants and civilians, international and domestic); examines human security discourse and the dilemmas of the responsibility to protect; outlines the expansion of legal responsibility to individuals and nonstate actors conditioned by deterritorialized international law; argues for a significant interventionist role for international justice in conflict management and peacemaking; examines new questions posed to international justice by the “war on terror;” suggests a hermeneutic and comparative role for “humanity law” in legal decision-making; and concludes with policy recommendations that sketch a “comprehensive” normative framework for nations and international law.

While the nature, efficacy and indeed the existence of the legal regime Teitel outlines will certainly be debated, I must admit to having more troubling reservations about her argument that concern both her interpretative theory of existing “humanity law” and the policy recommendations she bases on them. The first has to do with the ostensibly transcendent status of her conception of “humanity law discourse” which apparently operates in an infallibly referential language outside of worldly power relations. It is a notion (she seems to admit) not much revised from the Enlightenment conception of humanism which (she seems entirely to ignore) was easily enough deployed to justify slavery, racial terror, colonization, and patriarchy. While Teitel tacitly acknowledges instances in which the discourse of human rights has been used toward maleficent ends—and while a slightly longer glance at her own examples (the Holocaust, Rwanda, Congo) would illustrate the manner in which the concept of the “human” has regularly been used to dehumanize, to deny rights, and to warrant extermination—these examples do not elicit from her any examination of the discourse of “humanity” as an ideological tool or instrument of power.

Second, Teitel repeatedly posits a new and distinctive subjectivity that is produced by “humanity law” that encompasses “new and diverse claims and voices” (31) and that extends and redistributes rights and responsibilities. But she nowhere analyzes the process through which that new subjectivity is produced, who owns the means of production, or what interests are served by this new subject. Disregarding a century of thought on subjectivity, she endorses a conception of the subject equivalent to the fully rational and self-conscious Enlightenment individual, distinguished by the possession of reason, and the discrete locus of responsible agency.

Third, I think the “individualization of justice” that Teitel advocates needs further consideration. She references Arendt’s important discussion of individualized responsibility in

Eichmann in Jerusalem, but the Eichmann trial, as well as nearly all of the cases Teitel analyzes (e.g., Nuremberg, the ICTY, the ICTR) arguably suggest that the principle of individual accountability is inadequate to respond to the banalized and bureaucratized evil of societal systems of repression. Such examples might well indicate less a need for increasingly individuated justice than for a form of justice capable of adjudicating one's participation in a widely-diffused and systematized form of brutality (for which an individual is neither wholly responsible nor wholly free from responsibility), a justice that draws within the purview of legal accountability the multiple networks, systems, forces, locations, and processes that both exceed and condition the individual. Indeed the practice of pursuing political "decision makers" current in international law risks reinforcing military codes of "command responsibility" (in which subordinates are conceived as incapable of making responsible decisions) and the ideology that atrocities are carried out by deranged individuals rather than participated in, in varying ways and degrees, by entire armies and societies at large.

Finally, the kind of comprehensive, universalized normative regime that Teitel envisions, which unequivocally advocates an increased judicialization of international society and greater reliance on regulative legal norms, may at moments send a cold, Orwellian shiver down a reader's spine. Despite her occasional qualifications that such a regime "does not posit an abstract system of hierarchized legal norms ... [but draws on] the shared experiences of the memory of inhumanity" (205), Teitel does not take such provisos seriously enough to elaborate on them, and seems to assume that merely acknowledging a problem makes it go away. But neither affixing the label "humanity law" onto a normative regulatory regime, nor selecting a prestigious history for it, solves the myriad and acute problems such a universalized doctrine entails. Hegemony by any other name still smells as odious.

Thus while there is clearly much to be learned from Teitel's extensive research, and while her argument provides rich material for further debate, I remain unconvinced and indeed wary of many of the conclusions she draws.

Rebecca Saunders

Illinois State University