Book Review


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While treaties like the International Covenant on Economic, Social, and Cultural Rights (ICESCR) affirm the rights to health, adequate housing, food, work, and education,¹ civil and political rights continue to dominate the agenda of the international human rights community.² Stones of Hope: How African Activists Reclaim Human Rights to Challenge Global Poverty, edited by Lucie E. White and Jeremy Perelman, foregrounds economic and social rights (ESR) advocacy within the field through a series of case studies and interpretive essays. The contributors examine how activists are embracing human rights values while rejecting traditional, top-down approaches to human rights practice. The book is the culmination of White’s “Stones of Hope” project, begun in 2006 as a collaboration between human rights activists and scholars to explore innovative ESR advocacy strategies across Africa. Stones of Hope is far from an authoritative guide to effective ESR advocacy. The contributors do, however, demonstrate that by looking beyond traditional human rights institutions and legal remedies, advocates can drive and sustain structural change, realizing tangible rights at the grassroots level. In addition, the theories and practices the authors present should stimulate continuing reflection and more rigorous analysis of ESR strategies.

In Part I, four case studies offer compelling illustrations of the diversity of grassroots ESR advocacy in Africa. Felix Morka documents the efforts of the Social and Economic Rights Action Center (SERAC) to combat forced

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². Ruth Buchanan et al., The Evictions at Nyamuma, Tanzania: Structural Constraints and Alternative Pathways in the Struggles over Land, in STONES OF HOPE: HOW AFRICAN ACTIVISTS RECLAIM HUMAN RIGHTS TO CHALLENGE GLOBAL POVERTY 91, 93, 110 (Lucie E. White & Jeremy Perelman eds., 2011).
evictions in the Ijora-Badia community (Badia) in Lagos, Nigeria. When the Lagos State government announced plans to demolish Badia and fourteen other informal settlements to make way for the World Bank-funded Lagos Drainage and Sanitation Project (LDSP), SERAC began a campaign to resist these forced evictions. First, the organization provided human rights education to Badia’s residents that framed the provision of social and economic goods as a duty of the state. This new conception of goods and services as human rights empowered the residents to mobilize through rallies and protest marches, as well as to engage directly with public officials. SERAC also used the World Bank’s internal accountability mechanisms to pressure the organization to end its funding of the LDSP. SERAC appealed to the World Bank Inspection Panel with the claim that the LDSP violated not only human rights but also the Bank’s own policies. Media attention resulting from the inspection request eventually halted the World Bank’s support of the project. Badia residents’ effective grassroots mobilization and ongoing engagement with the government over development support Morka’s assertion that “[c]ommunity members found a collective voice to launch opposition to powerful government and international financial actors who threatened to destroy their homes.”

William Forbath details the right-to-health campaign led by the Treatment Action Campaign (TAC) of South Africa. TAC aimed to induce the South African government to provide antiretroviral treatment in the public healthcare system to prevent the mother-to-child transmission (PMTCT) of HIV. In this campaign, TAC applied a “politics-centered approach,” using litigation as one part of a long-term, multifaceted strategy, comprising nationwide rallies and marches, petitions, and dissemination of scientific research. TAC also pressured pharmaceutical manufacturers to supply PMTCT drugs for free to the public health system. Forbath argues that this approach built broad consensus that the African Nationalist Congress government’s intransigence and HIV/AIDS denialism were increasingly unreasonable, because PMTCT medications were even more available, free, safe, and effective. The author also suggests that TAC’s campaign created a sociopolitical context in which the High Court, and later the Constitutional Court, could comfortably enforce a “positive” constitutional right to health by ordering the Ministry of Health to stop placing unreasonable restrictions on access to health care.

Ruth Buchanan, Helen Kijo-Bisimba, and Kerry Rittich chronicle the Tanzanian Legal and Human Rights Center’s (LHRC) unsuccessful efforts to attain relief for Nyamuma villagers after the Serengeti District
government violently evicted them from their homes in 2001. LHRC brought the case before the Tanzanian Commission on Human Rights and Good Governance, a strategic choice since the Commission could look not only to the Tanzanian Constitution but also to international treaties like the ICESCR. The Commission dismissed LHRC’s initial complaint, but after a follow-up hearing, it determined that the government had committed human rights violations during the evictions. The government has since refused to accept the Commission’s findings or pay compensation to the victims, and LHRC is still attempting to enforce the ruling through the Tanzanian High Court. The authors cast the Nyamuma evictions and the failure of LHRC’s advocacy not as isolated incidents, but rather the result of the enduring conflict between economic development policies and economic and social rights. In Tanzania, land reforms such as the formalization of title and an increased focus on ecotourism and wildlife protection have led to the privatization of once-open spaces. These reforms render many Tanzanian pastoralists “poachers” or trespassers on their former lands. The authors leave open the question of whether and how local action by human rights advocates can resist these forces of land commoditization and foreign investment, and implement rights-based approaches to development.

In “Freeing Mohammed Zakari,” Jeremy Perelman and Katharine Young discuss the right-to-health campaign of Ghana’s Legal Resource Center (LRC). In 2003, LRC partnered with the Mother’s Club of Nima to free Mohammed Zakari, a man detained by a public hospital because he was unable to pay for his medical treatment. LRC initiated litigation not only to attain Zakari’s freedom, but also to challenge more broadly Ghana’s system of user fees for healthcare. LRC’s public advocacy and litigation prompted the government to increase funding for the poorly enforced “pauper exemption” to user fees and eventually to implement a national health insurance system. Perelman and Young use this story to introduce the concept of “rights as footprints.” Under this conception, rights are “collective memories of political mobilization,” generated through community participation and defined “by and for communities themselves,” rather than within the “institutionalized normative system” of courts, legislatures, and government agencies. The authors argue that the mobilization around Zakari’s cause reflects this community-focused and -reinforced conception of rights; however, the involvement of foreign student interns who drafted the petition and collected signatures for the campaign undermines this argument. Mahama Ayariga, one of the founders of the LRC, stated that “the petition signing created an important

6. Buchanan et al., supra note 2, at 96.
7. Id. at 104.
8. Jeremy Perelman & Katharine Young, Freeing Mohammed Zakari: Rights as Footprints, in STONES OF HOPE, supra note 2, at 122.
9. Id. at 125.
10. Id. at 123.
11. Id. at 139
12. Id. at 136.
space for the interns and the people to agree on rights.”

Thus, instead of the community defining rights by and for itself, the community still had to negotiate with outsiders in order to define the rights sought. This collaborative creation of rights suggests that the rights-as-footprints paradigm is not the great departure from the more standard conceptions that the authors claim it is.

Part II is dedicated to synthesizing the lessons learned from the case studies of African ESR advocacy strategies. Perelman and White argue that the profiled campaigns share common engagement strategies, normative orientations, and prefigurative capacities, despite operating within varied geographic locations and sociopolitical contexts. The most crucial commonality is that effective activists “prefigure” long-term structural change, meaning that through local experimentation with innovative welfare delivery systems that incorporate human rights values, the activists create and sustain the positive changes to institutional practices that they generate through grassroots mobilization. For example, in the case of Mohammed Zakari, the Legal Resources Center was not content with simply attaining Zakari’s release; instead, the organization continued to fight to abolish the user fees model and took an active role with the government in designing the national health insurance system. Similarly, the ongoing efforts of community members in Badia to engage with the public officials over development and infrastructure improvement projects demonstrate a capacity for lasting structural advocacy. The ESR advocates profiled in Stones of Hope do not simply seek to redress particular grievances; they also aim to eliminate structural injustice by shaping their methods and remedies to match their long-term visions of democratic institutions that have the capacity to effectively deliver on their guarantees of economic and social rights.

Next, Paul Houtzager and White trace “the long arc of pragmatic economic and social rights advocacy,” a model that shows how ESR advocacy creates structural change. In this model, the arc begins in local generative spaces, where a “convening authority” such as TAC, SERAC, or LRC brings together competing social groups, focuses the campaign, and engages state power and international organizations. Then, in national political institutions, ESR advocates pressure government policymakers and agencies to adopt ESR-positive changes. Once those changes occur, the institutional innovations finally diffuse back down to the local sociopolitical field — the local communities where deliberations and negotiations between power holders and community groups take place. Houtzager and

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13. Id. at 139.
14. Jeremy Perelman & Lucie E. White, Stones of Hope: Experience and Theory in African Economic and Social Rights Activism, in STONES OF HOPE, supra note 2, at 149.
15. Id. at 167-71.
16. Perelman & Young, supra note 8, at 144.
17. See Perelman & White, supra note 14, at 170.
18. Peter Houtzager & Lucie E. White, The Long Arc of Pragmatic Economic and Social Rights Advocacy, in STONES OF HOPE, supra note 2, at 172, 172.
19. Id. at 184.
White do not claim that this process manifests fully or identically in all campaigns, but they do believe the arc’s interrelated fields are “reference points” for ESR advocacy. The long arc is a helpful description of the different fields in which advocacy takes place, whether in the political-administrative realm through collaborations with public health officials, in the state power arena by disrupting the influence of powerful international organizations, or in the local sociopolitical field through partnerships with other community groups.

The contributors to *Stones of Hope* convincingly demonstrate that the strategies and norms of ESR advocacy can be trans-substantive and transnational. A common theme among the contributors is that formal legal rights and liberal values are a double-edged sword: while the language of human rights can empower marginalized communities to mobilize for institutional reforms, rights language can also reinforce inequitable practices that favor the rich at the expense of the poor. Furthermore, as Duncan Kennedy notes in *Commentary on Anti-Eviction and Development in the Global South*, rights discourse can also create “rhetorical dilemmas” when popular mobilization around ESR leads to collective projects that seem to run counter to liberal conceptions of individual rights. The authors do not resolve these dilemmas; in fact, the contributors frustratingly tend to raise these important issues without indicating possible means for dealing with them. Perelman and White do, however, identify normative commitments to critical liberal legalism and redistributive politics that should encourage ESR advocates to reach beyond formal legal remedies to more politically-oriented pursuits of distributive justice. The critical stance toward rights-based advocacy can also help scholars and activists break out of the discouraging framework that defines global poverty as an unavoidable result of development and to alternatively conceptualize it as the result of structural injustice that can be remedied by transforming democratic institutions.

The case studies’ lessons about the limited power of litigation to realize economic and social rights on the ground are especially relevant to lawyer-activists. The relative success of the litigation strategies represented varied, but Perelman and White suggest that where they were effective, as in the case of TAC and the South African court system, they were part of multi-pronged campaigns that included grassroots organizing, rights education, public advocacy, and engagement with state actors. Forbath’s distinction between court-centered and politics-centered models of rights advocacy is helpful for understanding how litigation may be successfully incorporated into ESR advocacy. While the court-centered model of rights advocacy views the courts as the “central arena for initiating or shaping pro-poor state policies,” the policy-oriented model uses litigation “in service of

20. Id. at 179.
22. Duncan Kennedy, *Commentary on Anti-Eviction and Development in the Global South*, in *Stones of Hope*, supra note 2, at 41, 46-47.
23. Perelman & White, supra note 14, at 150.
many-sided strategies to open up policy-making processes” through public advocacy and coalition-building.24 The successes of cases in South Africa and Ghana, and the failure of anti-eviction claims in Tanzania suggest that instead of looking to courts to drive reform, activists should use litigation to complement and provide leverage to their political campaigns. Given the difficulties of enforcing economic and social rights through judicial remedies,25 this emphasis on a more circumscribed, supporting role for ESR litigation is a major strength of this volume.

*Stones of Hope* advances important insights about the possibilities and challenges of ESR advocacy, but its recommendations are general and tentative. White and Perelman recognize the preliminary nature of the findings, noting that, “[t]he most salient lesson from this theory-and-practice project is that ESR activism, deployed in certain contexts and designed in certain ways, can sometimes open pathways leading to positive changes.”26 Their conclusions are cautious due in part to the project’s methodology, which involved “reflective conversations” with lawyer-activists designed to surface the “tactics, calculations, expectations, theories of change, and motivating values” that undergirded and informed their practice.27 *Stones of Hope* would have perhaps benefited from a more rigorous approach, drawing on quantitative research in addition to the qualitative case studies. Evidence-based analysis, in combination with the anecdotal accounts and theoretical essays, would have helped to develop a more comprehensive picture of which practices and norms actually constitute effective ESR advocacy.

Although *Stones of Hope* is not a definitive blueprint, the lessons learned in the informal settlements of Badia and Mother’s Club meetings in Nima can still inspire campaigns for reform. The authors intend for the case studies and theoretical essays to motivate an ongoing process of collaborative analysis that can engage diverse activists in “critiquing the theory [and] theorizing the practice” of ESR.28 Activists will thus find in this book valuable starting points for investigating and defining the contours of ESR practices that address the intractable problem of global poverty by challenging structural injustice.

27. *Id.* at 4.
28. *Id.* at 5.