

**A LIBERAL THEORY OF INTERNATIONAL JUSTICE**, by Andrew Altman & Christopher H. Wellman. Oxford, Oxford University Press 2009. 233 pp. Cloth £. ISBN: 978-0-19-956441-5.

Reviewed by Günther Auth, Department of Political Science, Maximilians-University, Munich. Email: guenther\_auth@web.de

It has been widely accepted that various societal processes have grown out of formal state boundaries. The worlds of commerce, finance, entertainment, and information, to name but a few, have evolved their own institutional domains in what is often called a transnational space. Industrial production, a great bulk centered on the numerous and partly integrated military-industrial complexes of the largest economies, has molded a transnational architecture of corporate and inter-firm relations. Such transnational webs, heavily sponsored by large investment banks and their hedge funds, may be considered as a formative context of more formal statist processes of governance. For politics at both the national and international levels has to an increasing extent been tailored to the search for profits and expected returns that lie at the core and define the rationale within the transnational realm. The Gulf Wars, justified as actions aimed at self defense and humanitarian intervention, had in all likelihood been much more informed by hopes of top level executives in the financial and military-industrial sectors to boost the value of their shares by demonstrating advanced military technology and securing access to pivotal resources such as oil. Similar concerns have driven numerous neocolonial undertakings of several governments on the African continent, usually cloaked under terms such as development assistance, structural adjustment, humanitarian intervention, or democratization. Even less spectacular but more fundamental developments, namely the myriad formal and informal processes of political cooperation within international regimes and organizations have been instituted so as to engulf the rapidly expanding industrial and financial architecture in the transnational realm with a protective belt of norms, rules, surveillance and sanctioning systems in the international realm.

According to views that have been sponsored by centrist politicians and promulgated by mainstream academics as well as journalists, the goings-on within the transnational sphere have arguably been decoupled from high politics. They have allegedly operated on their own terms. What has become known as globalization has thus come to be perceived by many as something that is somehow beyond the political, something that has evolved naturally, and something that has gained momentum solely out of itself and on progressive entrepreneurial premises. What is more, the concomitant deification of globalization amongst liberal progressives as something that is modern, apolitical, natural, inevitable, and ultimately

desirable has shed some negative light upon the political. In fact, for many the only worthwhile role of politics has come to be identified with [\*626] being a useful servant of globalization's inherent necessities. Traditional categories of perception and evaluation of world events in political terms, i.e. the state, sovereignty, the national interest and so on have come to be seen as anachronistic. Global affairs in the 21st century have relegated the state and international relations among sovereign states of marginal importance, or so it seems at least.

It is in this context that the authors of the book under review undertake to formulate an interesting, albeit somewhat controversial and ultimately narrow, argument. Put simply, they maintain that despite much ado among academics, journalists, politicians and all sorts of opinion-makers about the monstrosity of the shift that globalization has presumably brought about, the state and state sovereignty, and therewith the entire system of international relations, are not only compatible with globalization, but sovereign states will remain important cornerstones in a globalized world. For "the human population will continue to be divided into territorially distinct states exercising important sovereign powers and regulating their interaction, to a certain extent at least, by means of international law" (p.2). For Altman and Wellman, the persistence of the sovereign state as a form of political organization is a good thing, too, because it is the state that protects the human rights of individual human beings, and because it is the state that refrains from violating the human rights of all others. In this view, the institutional setup of the sovereign state harbors political legitimacy as it provides a system in and through which human beings all over the world are, in principle, safe and secure against arbitrary violence. According to Altman and Wellman, this is all the more important in the context of globalization. For it is the sovereign state that avails itself of mechanisms that prevent human rights violations in both the domestic and international spheres: a domestic legal system allows for the making, enforcing, and adjudicating of valid legal rules within a state's territory; an international machinery of international law and organization facilitates promotion and implementation of human rights, either through diplomatic and legal proceedings or through humanitarian intervention. The authors are of course not unaware of the fact that there are numerous states that deprive individual human beings on a regular basis of their basic human rights. But these states are not the main focus of their book. From their point of view, states that violate human rights must not be considered as legitimate. Their sovereignty must not be taken for granted. Only legitimate states and their international relations could be considered as worthwhile cornerstones in the period of

globalization, which is also because they are called upon to discipline and sanction states that forfeit their legitimacy through systematic violations of human rights.

The book itself is an elaboration of this argument into what the authors call a liberal theory of international justice. Its main premises are that a national identity is a defensible source of personal identity, that nations are ethical communities that impose on their members reciprocal obligations that are not at the same time owed to outsiders, and that nations have a good claim to be politically self-determining. Altman and [\*627] Wellman place their argument in the midst of an ongoing academic discussion that is bounded by the more extreme positions of cosmopolitanism and, respectively, realism. Unlike the former, they maintain that it does matter, for instance with regard to obligations vis-à-vis the poor, to which statally organized community one belongs as a naturalized citizen. For this community deserves one's principal solidarity, not the diffuse and purely imagined community of global citizens. By privileging the state over global humankind, the authors rule out categorically that moral duties, even though they cannot be denied their existence, exert the same pull everywhere on earth. Given that convinced cosmopolitans are at best a small minority, the normative stance of the authors does lay claim to some realism insofar as it takes into consideration that official state practice follows a logic that is in many respects incompatible with the normative position of cosmopolitans. Yet, for all its realism the position of Altman and Wellman must not be conflated with the other extreme position that goes under the same name. For unlike realism, which argues strictly in terms of the national interest, and which derives all normativity in the context of international relations from the absolute moral imperative that states secure their survival by all necessary means, the authors' main point does emphasize more inclusive moral precepts that are not ipso facto congruent with what states want.

The two central theses of this theory revolve around the premises that states are only legitimate if they adequately respect and protect human rights, and that legitimate states have a moral right to self-determination. Chapters 2-7 touch upon various issues that are related to these premises. The first is the right of political self-determination. Altman and Wellman see it as a collective moral right that accrues to states or whatever group that is willing and able to protect individual human rights. Interestingly, self-determination does not imply that states or peoples have to choose a democratic form of government in order to obtain legitimacy. The only point that matters for them is that autonomous states, or groups, respect and protect human rights (p.27). Compared with the individual rights that are sketched out in Articles 3-20 and 25-26 in the Universal Declaration of Human Rights, Altman and Wellman do not

consider democracy as such a fundamental human right.. Closely related to this point is the problem of secession. They argue a group should be allowed to secede from a larger community if both the residual and the newly formed entity are able and willing to adequately [\*628] respect and protect individual human rights. This position is fully coherent with their central premise. But as they admit, it opens the possibility that the existing map of sovereign states will be broken up by a multitude of smaller groups claiming statehood.

Another issue is the growing importance of international criminal law, which has become manifest as regards the imposition of criminal liability on individuals, the development of international criminal norms into what is known as *ius cogens*, and the establishment of international tribunals with jurisdiction over domestic affairs. The authors' point, in essence, is quite logically that all those states that turn out unable, or unwilling, to adequately respect and protect human rights render themselves a primary target of international criminal law. Their officials and citizens may be prosecuted on the basis of international criminal norms before courts of other states or international bodies such as the newly formed International Criminal Court (ICC). The same reasoning applies to armed intervention: states that fail to adequately respect and protect human rights may become subject to an armed intervention by another state or coalition of states, provided the risks entailed by the intervention are proportional to the rights violations that can be reasonably expected to be averted. Given that the costs of an armed intervention appear disproportional, it may in principle be a possible solution to a human rights impasse to mandate the targeted killing of leaders and/or bureaucrats in charge, despite obvious moral concerns and institutional impediments in executing such a plan.

The last two issues concern the questions of international distributive justice and, respectively, immigration and membership. As Altman and Wellman point out, calls for large-scale redistribution of assets from relatively wealthy to poorer countries usually stem from the thought that a great many people in numerous poor countries are in calamitous life conditions because of their country's colonial past. The prevailing opinion has it that poverty and all its deleterious consequences as regards illiteracy, diseases, unemployment, and social as well as political marginalization is not necessarily the fault of the poor themselves. For many it is obvious that the contemporary have-nots live under circumstances that they consider not only miserable but also entirely arbitrary. The most lamentable thing is, though, that the dependency of many poor countries has not been relieved by those with the power to do so. For humanitarians and others, the greatest scandal lies in the fact that corrupt political regimes and profit-seeking transnational corporations have until the present day been left the freedom

to subjugate the poor to their own political and/or economic advantage. There have in any case not been enough attempts by many governments to rectify such injustices, or so the argument goes, despite the duty of wealthy nations to write off debts and redistribute assets in large amounts.

Altman and Wellman reject to this thesis. They do not deny a responsibility on the part of wealthy states to assist the poor. Yet, in their estimation, legitimate states have some discretion of how to meet their responsibilities vis-à-vis the poor. They may export resources or admit greater numbers of poor immigrants. But the appropriateness of these and other strategies would not have to be judged solely with a view to the indigence of the poor or their historical ties with former colonial powers. A more relevant aspect is the current relationship between rich and poor countries, say as trading partners with deepening bilateral relations or as members of the same multilateral agencies. Institutional linkages such as these open a variety of avenues in and through which the lot of the poor can be altered to the better. From the perspective of the authors, this further amounts to saying that legitimate states have no duty to admit into their territory any potential immigrants or even to open their borders to refugees seeking asylum [\*629] from incompetent or corrupt political regimes. Freedom of association implies that the members of any group in question define the parameters of their immigration policy as they see fit. What is also important, the members of any group enjoy the privilege that their human rights be respected and protected by other members of their group. The members of legitimate states need be granted the exclusive competence to define matters of immigration because of their obligation to treat all citizens as equal members of the political community. So irrespective of the fact that there are multiple ways in which wealthier states can assist those who are miserable and imperiled, they may reject all potential immigrants, even those desperately seeking relief from persecution on political grounds, because the existing equilibrium within their borders may otherwise be difficult to sustain.

As already implied above, there are some interesting things about the authors' argument of international justice. Perhaps the most striking aspect is the coherence with which the importance of international (and for the authors this essentially means interstate) relations are rehabilitated as a process that is and should be guided by normative concerns as they are to be derived from considerations of legitimacy. Throughout the book, the two-pronged argument about legitimacy and its corollary right of political self-determination is consistently developed against the prevailing opinion and through logical and analogical reasoning. So Altman and Wellman manage to unfold their argument sensibly and persuasively. It thus becomes clear in every chapter and with regard to every aspect that they

consider vital for their theory of international justice if and to what extent they differ from more firmly settled views. Particularly interesting in this regard is the chapter on distributive justice where they distance themselves from both the overtly cautious approach of Rawls and the overtly ambitious approach of Pogge. As the two authors explicate, Rawls fails to provide a fully fleshed out theory of international justice that reckons with the existing global basic structure of inequality and that enables him to derive appropriate steps how states and/or individuals might alleviate this problem. Pogge allegedly exaggerates the importance of this global structure of inequality, and with it the guilt of all advanced capitalist states that have not only brought it into being but that constantly reproduce it in their bi- and multilateral relations, thus forfeiting precisely the sort of legitimacy that would render them 'natural' guardians of international justice. Altman and Wellman argue in contrast to these views that and why even states with the most horrible record of human rights violations have still forfeited at best some elements of their sovereignty, not their entire right of self-determination. Just as individual human beings may fail in some regards to respect others' basic rights but manage to do justice to them in others, states rarely lose their legitimacy and the right of self-determination entirely. The example of Nazi Germany is meant to drive this point home. For however horrendously the Nazi government trampled over basic human rights of both German nationals and foreigners the state itself lost only portions of its sovereignty because it still managed to respect and protect several other basic human rights [\*630] of many German nationals during and then after the war. What manifests itself in this position is a stance that is decidedly normative and at the same time pragmatic as it seeks to arrive at a theory that allows derivation of moral imperatives that concrete states in the concrete context of contemporary international relations are meant to take seriously.

Yet, for all its consistency, there are some criticisms that may be leveled against the book. One has to do with the overtly academic thrall of the argument. It is of course interesting and important to review and engage with arguments that have been conveyed by reputed theorists of international justice. But the debate would not have to be confined solely to academic voices. The contemporary discourse of international justice involves academics, journalists, activists, and policymakers, a considerable number of them from poor countries. The discussion of alternative views would have been broader, and sometimes also more to the point, if the authors would have been more sensitive to such views. Closely related to this is another and more fundamental criticism, which has to do with the narrow and formal understanding of international justice. Recall that for the authors political legitimacy is a function of state officials adequately respecting and protecting the human rights of a

respective state's members. But what precisely does adequate human rights protection mean in the context of a state's domestic policy? Are random or very specific human rights violations, such as the arbitrary and indefinite detention of what the US government called enemy combatants in Guantánamo Bay Naval Base or the German Chancellery's role in preventing German citizen Murat Kurnaz from leaving the US detention camp at Guantanamo Bay, sufficient to call into disrepute the adequacy of a state's human rights protection efforts? And just as important, who decides over what counts as adequate and what not? Is it relevant whether or not human rights organizations such as Human Rights Watch, Amnesty International, or Helsinki Watch, refer to acts of state as violations of human rights? Or does the competence to ascertain human rights violations lie more with official bodies at the level of states and/or international governmental organizations? Even more fundamentally, what precisely is it that state officials have duties to respect and protect adequately, meaning what does life, liberty, and security mean in the concrete societal circumstances that concrete human beings find themselves in at every moment of their lives? And who is actually responsible for deprivations of life, liberty, and security?

The great majority of those who have survived infancy in Sub-Saharan Africa, i.e. countries like Sudan, Chad, or Congo, will not have access to primary education. For two thirds of the population, especially women, their life situation is one that is characterized by illiteracy. If they do not end up as criminals or (child) soldiers, the illiterate constitute a labor force whose members have no other choice than accepting risky and poorly paid jobs on plantations, in factories, or in domestic service without job tenure, workplace security, let alone sickness benefits. Neither are conditions such as these compatible with ordinary notions of human dignity, nor can they be said to [\*631] be in harmony with minimal requirements regarding liberty and security. Given that corrupt state officials who bear primary political responsibility for these circumstances have often been supported, maybe even installed, from the outside so as to grant wealthy countries and their transnational corporations free access to the exploitation of resources and what is often called human capital, it appears shortsighted and even preposterous to conceive legitimacy, and the lack thereof, in purely formal statist terms. The transnational context of corporate finance and production has evolved a logic that translates into formal policymaking, within and across state boundaries. It is hardly exaggerated to maintain that corrupt political elites who are directly responsible for the prevalence of socioeconomic crises and humanitarian catastrophes in many poor countries are only the most visible part of a complex network composed mainly of Western governments, their international organizations, and their transnational corporations. Ultimately, poverty and

human rights violations have their roots not only, not even primarily, in corrupted state policy but in structural adjustment policies, conditioned development aid, and rules prescribing free trade. Finally, poverty-related injustices and human rights violations are not appropriately described as characteristic phenomena of corrupt and autocratic Third World states. The societies of advanced capitalist states themselves are characterized by essentially the same symptoms, though to a smaller extent. So the fixation upon the state as a category from which the theorization of international justice proceeds appears not entirely plausible.

In sum, presented at a level with a considerable degree of formal abstraction, the theory of international justice that the two authors present is not always easy to relate with more profane observations, even though it does have something to say about many salient issues.