

2009

David P. Forsythe on John Charvet and Elisa Kaczynska-Nay. The Liberal Project and Human Rights: The Theory and Practice of a New World Order. New York, NY: Cambridge University Press, 2008. 446pp.

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Recommended Citation

Forsythe, David P. (2009) "David P. Forsythe on John Charvet and Elisa Kaczynska-Nay. The Liberal Project and Human Rights: The Theory and Practice of a New World Order. New York, NY: Cambridge University Press, 2008. 446pp.," *Human Rights & Human Welfare*: Vol. 9: Iss. 1, Article 12.

Available at: <https://digitalcommons.du.edu/hrhw/vol9/iss1/12>



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Abstract

A review of:

John Charvet and Elisa Kaczynska-Nay. *The Liberal Project and Human Rights: The Theory and Practice of a New World Order*. New York, NY: Cambridge University Press, 2008. 446pp.

Keywords

Human rights, International relations, Institutionalization, Liberalism, International law, State sovereignty

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John Charvet and Elisa Kaczynska-Nay. The Liberal Project and Human Rights: The Theory and Practice of a New World Order. New York, NY: Cambridge University Press, 2008. 446pp.

This book, written by two Europeans, one a political theorist and the other an independent writer on international law and economics, presents a fairly conventional defense of contemporary efforts at institutionalizing human rights in international relations. Despite the extravagant endorsements on the back cover, this reviewer found little that was new or provocative about the analysis, with some important perspectives left out. But for the most part it is certainly a knowledgeable survey of what is covered.

The authors start by giving a survey of “liberalism” as political theory and how its many and sometimes clashing principles have shaped international developments regarding human rights. This early overview is well informed, as when the authors discuss the various forms of liberalism such as libertarianism, state capitalism, social democracy, and democratic socialism. They also note, as have many others, that the meaning of economic freedom in democratic context is not a settled matter. So all of this is very solid, as is the follow-on treatment of intellectual history pertaining to international law and state sovereignty. Some of this history is presented through the prism of the English school approach to understanding international relations, positing a society of states instead of merely a system of states, and discussing pluralist and solidarist options—which in plain language refers to keeping states apart in a traditional Westphalian order compared to bringing them together for common or cosmopolitan ventures. The latter can imply some supranational arrangements, or at least pooled sovereignty.

Along the way it might have been useful to address the point made by Michael Ignatieff that to believe in liberalism with human rights one does not need political theory so much as political history. Reading the history of human wrongs, so he argues, one can get a strong appreciation of the need for human rights—to try to guard against repetition of the abuses and deprivations of the past.

The authors conclude the theoretical and historical introduction with the assertion that “the obvious moral justification for the notion of the sovereign state in the modern world is that it combines and expresses the wills of its autonomous members and that when so understood, sovereignty contains an inherent constraint arising from those members’ rights” (78). This can be debated. It is obviously not true for states with authoritarian governments which deny political rights. And even in liberal/genuine democracies, it is difficult to fully agree that the will of citizens imposes much restraint directly and immediately on governments speaking for sovereign states, at least as foreign policy is concerned. The Administration of George W. Bush in the United States is not the only government to lie, fabricate, and otherwise mislead the public about, e.g., Iraq under Saddam (Lyndon Johnson did the same about Vietnam and the Gulf of Tonkin in 1964). The public is easily fooled into passive acquiescence for unwise and perhaps illegal policies, a jingoistic nationalism being easily mobilized by flag waving leaders (as per Margaret Thatcher and the Falklands/Malvinas episode). How state sovereignty generates inherent limitations in such situations is not at all clear to this reviewer. True, if citizens in liberal democracies are adamant about defending their individual rights, governments are limited. But

the benefits of democratic sovereignty are not always evident in foreign policy, and it is foreign policy that affects rights abroad.

Certainly in the United States, it is only when the public finally perceives that foreign policy has gone badly off the rails that it can mobilize itself to pay attention and do something about these apparently distant and abstract matters (as in the congressional elections of 2006). Even then, foreign policy does not stay prominent for the mass public, but rather reverts to more domestic and clearly self-interested matters (such as the domestic economy by 2008). There is a role for the will of citizens in democracies in relation to foreign policy, based on voting and other rights, but democratic governments have much policy space to undertake the unwise and even illegal venture while the public is in its usual mode of “permissive deference” and “government knows best.” Until the policy train is finally perceived as indeed off the rails, the idea of state sovereignty empowers governments in foreign policy, rather than restraining it. Government speaking for the territorial state is assumed to have the last say on policy matters, and the collective citizen will is often not paying attention on a daily basis, even if in theory it manifests itself in the voting and other political rights that could compel a change in course.

In the part of the book dealing with particular rights, some will find it misleading to continue to refer to the sovereign state system as a reflection of liberalism, except in the sense that in the UN General Assembly all states are legally equal and possess one vote, or in the sense that each state can choose to consent to various legal obligations or not. But particularly since much policy at the UN, as well as outside of it, is not determined by majority vote of the “society” or “community” of states, it remains misleading to speak of “the autonomy and liberty rights of sovereign states” (81). Given the illiberal mischief that sovereign states have done at home and abroad, justifying this state system in terms of liberal principle seems perverse, even if compatible with the separatist wing of the English school.

The one aspect of the UN system, for example, that might be liberal or democratic in any important sense is the setting of the regular or headquarters budget of the Organization, not discussed in the book at any length (Of course the book is about human rights, not the UN system.). But in fact, the budget is really set not by majority vote any more but by consensus agreement in the budget committee, where a de facto veto usually is at play. The formal vote in the General Assembly is pro forma. The UN system, reflecting a formal legal equality of states, is not really very liberal or democratic at all, since vast numbers of states have little influence over decisions in the authoritative Security Council, or in related key agencies like the World Bank and International Monetary Fund. The Secretary General is chosen by the five permanent members of the Security Council, with the GA vote again being a rubber stamp. Not many small or weak states would see the contemporary international order as very liberal/democratic.

While the authors give a competent and standard review of much institutionalized diplomacy in relation to such subjects as human rights in general, women’s rights, a people’s right to national self-determination, a right to development, and so on, some important foci are largely omitted. For example, one does not find an extended analysis of the role of the UN Security Council and whether it has used its authority under Charter Chapter VII to require member states to change their policies concerning human rights. Sometimes the Council has done so, as when creating and requiring cooperation with certain criminal courts, and sometimes it has not, as when

deciding (because of China and Russia) not to address human rights violations in Burma/Myanmar in any robust way. To have a detailed examination of the old UN Human Rights Commission and new Human Rights Council, but to skip the interesting evolution of the Security Council regarding both human rights and humanitarian law seems a matter of misplaced priorities. It is after all the Security Council that can create legal obligations concerning human rights, sometimes backed by the implied promise of powerful sanctions to follow.

The book closes with a defense of liberalism as it might be articulated by John Locke in the face of various critiques by advocates of Marxism, radical/reactionary Islam, East Asian values, and so forth. Not surprisingly, the authors conclude that the norms and principles at play in the construction of human rights standards, and the efforts at implementation, are perfectly defensible in terms of liberal principles. They do not dwell on the point that it is precisely state sovereignty that blocks more robust enforcement of human rights and humanitarian law, since states refuse to create a supranational UN human rights court. Moreover, states do not often sue each other in the International Court of Justice (ICJ) over human rights matters, such cases being few and far between in the history of the ICJ.

The book is likely to meet with favor by the separatist wing of the English school, which might account for the back cover endorsements. But it was not clear to this reviewer just what the larger market for the book would be, and what the purpose of the book really is. It is not a comprehensive text on human rights. It is not a comprehensive examination of the workings of international relations with regard to human rights. In particular, it does not address the rather common phenomenon of states voting for human rights treaties, and even ratifying them, but then violating those same treaties (the example of the torture convention is a prime example these days) because governments judge their security interests require otherwise. So the continuing clash between, on the one hand, the liberal/cosmopolitan/Enlightenment project in favor of universal human rights, and, on the other hand, the continuing power of narrow nationalism undergirding claims to state sovereignty, is not treated with any great insight here.

The book seems to be a somewhat artificial or legalistic endorsement of state sovereignty and how it plays out with relation to supposedly universal human rights, but without a full recognition of the problems that sovereignty cum narrow nationalism has generated. One certainly does not get much sense of how the notion of state sovereignty has been weakened by demands for greater international protection of a broad range of human rights. Nor is there a trenchant discussion of how liberal democracies often violate basic civil rights (personal integrity rights) when responding to “terrorism.” “Terrorism” is not even in the index. The book could have profited from a discussion of how the sovereign democracies of Israel, the United Kingdom, and the United States, among others, have violated rights of personal integrity in their counter terrorism policies. After all, there is a school of thought represented by John McCloy, Dean Acheson and others who argue that when the sovereign state is threatened, virtually all law goes out the window, and certainly that law presumably protecting the human rights of enemy or security prisoners. This omission is no small matter in a book about liberalism and human rights.

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