> this over a ten year period contradicts the fundamental, essential need to build internal capacity.

The other suggestions on her list suffer from similar drawbacks.

Autesserre's proposed ten year transition sounds a bit too much like an international protectorate, an idea that begs the question rather than answering it. Reunifying the Congo and helping to create a functioning Congolese state are daunting tasks; the World Development Report says:

> Creating the legitimate institutions that can prevent repeated violence is, in plain language, slow. It takes a generation. Even the fastest-transforming countries have taken between 15 and 30 years to raise their institutional performance from that of a fragile state. . . to that of a functioning institutionalized state."[5]

A ten year protectorate is no solution; the least worst strategy includes holding elections as early as possible. It is preferable to proceed with elections as part of the process to create a more legitimate and more functional state. That state will continue to be deeply flawed, and burdened by corruption, weak institutions, warlord leadership, and many more deficiencies. But working to improve such a state is the best realistic option we have. This accepts a world of "least worst" options. The reality is that, despite relatively successful elections in 2006, Congo, in late 2011, is limping towards another round of national elections, with myriad difficulties and with the international community still heavily involved.[6] Congo is still decades away from nearing the end of the 30 year transition time horizon posited by the World Bank.

There can be no question that international actions in the Congo could have been much more effective. But the approach advocated in this book would have made a bad situation worse.

Tony Gambino*

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Andrew Altman & Christopher Heath Wellman, *A Liberal Theory of International Justice* (Cambridge: Cambridge University Press 2009), 248 pages, ISBN13: 9780199564415.

This is a tightly argued book structured around the central claim that "the right to political self-determination is an irreducibly collective moral right held by legitimate states and groups that are willing and able to become legitimate states."[1]

5. World Development Report 2011, *supra* note 3, at 10.
6. Congo's 2011 national elections, held in November, were a huge setback to democratic progress. The international community failed in its role of supporting and strengthening weak democratic institutions and structures within the Congo. The failure of these elections might appear to strengthen Autesserre's anti-election stance. However, their failure is more accurately seen not as an indictment of elections, but as further evidence that longer term collaboration between international actors and the Congo remains essential.

1. Andrew Altman & Christopher Heath Wellman, A Liberal Theory of International Justice 11 (2009).

The book unpacks this claim and draws from it a series of (at times unexpected) conclusions that place it squarely in the arena of international justice. Most of the chapter titles confirm this interest: Secession,[2] International Criminal Law,[3] Armed Intervention and Political Assassination,[4] International Distributive Justice,[5] and Immigration and Membership.[6] These are all topics of heated debate among theorists of international affairs and law. None of them by themselves suggest the "liberalism" of the book's title. The just cited central claim about political self-determination in fact suggests a conservative approach to the issues raised, for the right to political self-determination of states goes at least as far back as the 1648 Peace of Westphalia. Still, the main arguments in this book are liberal ones.

That liberalism emerges once we see what the authors (who are philosophy professors at Georgia State and Washington University, respectively) mean by the adjective "legitimate," used twice in the above claim. A legitimate state, the authors hold, "is one that adequately protects its constituents' human rights and respects the rights of all others; it performs what we call the 'requisite political functions.'"[7] These functions would seem to be those used in international law and affairs. However, the discussion in the chapters shows that for these authors the real and most important test of a state or a group that aspires to be a state is if it adequately protects the human rights of "its constituents and respects the rights of all others."[8] The protection of human rights within a state's borders and as a foreign policy goal is the hallmark of a legitimate state. This is what makes this theory of international justice a liberal one. The authors have joined a growing group of theorists (like Alan Buchanan and Charles Beitz) who want to integrate respect for human rights more fully into traditional international law and justice, where these individual rights do not have a ready home plate to run to. Contemporary theorists of international justice sort themselves out in how they mix these two ingredients: the macro rights of states and the micro or human rights of individuals. Looking at the mix in this book, I recommend it highly, for the authors have come up with a very intriguing recipe for mixing these two poles of present-day international justice.

The uniqueness of their recipe comes from the apparent conflict between asserting the primacy of human rights in international affairs (which is a radical, or at least, liberal idea), and asserting "the irreducibly collective moral right of political self-determination"[9] held by certain groups, which, because it is a collective right, steers the book in a conservative direction. As the book's jacket tells us: "This book advances a novel theory of international justice that combines the orthodox liberal notion that the lives of individuals are what ultimately matter morally with the putatively antiliberal idea of an irreducibly collective right of self-governance."[10] That is an accurate

2. *Id.* at 43.
3. *Id.* at 69.
4. *Id.* at 96.
5. *Id.* at 123.
6. *Id.* at 158.
7. *Id.* at 13.
8. *Id.*
9. *Id.* at 11.
10. *Id.* at book jacket; *see also id.* at 1.

description. The book's novelty comes to the reader in at least three ways. First, the authors do a good job keeping the two apparently contradictory claims going and playing them off against each other in each of their chapters. Second, the book is novel because there are very few arguments that are drawn from the history of international law and affairs, as one might expect. Instead, the arguments are drawn from political theory generally and from hypothetical examples that the authors construct for their readers' benefit. Third, the book is novel in that it follows a fairly rigorous deductive structure, with Chapter Two defending the claim that there indeed exists an irreducibly collective moral right to self-governance that certain groups have, the consequences of which are then traced in the subsequent chapters. This deductive structure of the book puts a lot of weight on the arguments of Chapter Two where the authors explain and defend this right of collective self-determination.

Entitled "Self-Determination and Democracy" this chapter explores the foundations of these two principles:

> (1) A state has a moral right of political self-determination if and only if it adequately protects and respects human rights. (2) A nonstate group that aspires to become a state has a moral right to political self-determination if and only if it is willing and able to become a state that adequately protects and defends human rights.[11]

Normally, one would expect the usual liberal consequences to follow from these liberal principles, such that secession, international criminal trials, armed interventions and political assassinations, international distributive schemes, and limits on immigration are all determined by the test of how well each of them protects internationally accepted human rights. But that is not the argument of this book, for the moral right of political self-determination of states and certain groups is an "irreducibly collective one."[12] This irreducibility fact gives a twist to these normally expected outcomes and makes this book one that is full of interesting and challenging arguments, the first one being the manner in which the authors defend this central irreducibility thesis.

Their method here is a transcendental one; they argue that we cannot make sense of the decolonization movement of the 1950s and 1960s unless we postulate or acknowledge that the groups of "native inhabitants"[13] that sought their independence have an irreducible (to individual rights) moral right to political self-determination. This right is a collective one because it cannot be reduced to mere protection of individual human rights, or so goes the argument. The authors' evidence for this claim is a long citation from Frantz Fanon, who is "one of the leading theorists of decolonization."[14] Fanon distinguished between the "liberal" or human rights moment of the decolonization struggle and "the national liberation phase" that the authors emphasize in their analysis. Thus, the argument for their central claim about the irreducibility of political self-determination is mostly based on Fanon's (and some others') authority and not on their own examination of a historical case or two. This fits the book's style of argumentation, for the authors are less interested in the history

11. *Id.* at 13.
12. *Id.* at 7.
13. *Id.* at 12.
14. *Id.*

of international law than in logical construction of arguments that buttress their novel thesis. They move quickly from Fanon's point about decolonization to a hypothetical example where the United States forcibly annexes Canada against the will of the Canadian people. We all would say that "this forcible annexation is morally impermissible." The above cited "principle (1) explains why."[15] The book is full of these kinds of unexpected connections. Instead of being treated to a historical analysis of how Canada got its chunk of planet earth and how the United States got its, our moral intuitions reveal that Canadians as a group have an irreducible moral right to political self-determination. Nothing is said here about the historical origin of states or about the principle of recognition that makes states the legitimate states they in fact are.

While the rejection of this annexation scenario supposes that the human rights of Canadians are adequately protected, that is only part of the test. Even if these rights would be slightly better protected after this supposed annexation took place, the act would still be impermissible unless 100 percent of the Canadian people had voluntarily voted for the annexation, which, of course, is not likely. Compare this annexation to the following situation. Suppose that a new set of parents could give slightly better care to the children of neighboring parents. We would still refuse to forcibly transfer the children to the better set because (within certain limitations) parenthood is an irreducible right belonging to those who gave birth to these children. In that way a state stands in *loco parentis* to its citizens. This form of argumentation so early on in the book sets the tone and lifts the principle of collective self-determination of groups that adequately protect human rights high above the history of international relations and law and grounds it instead in the readers' moral intuitions about what seems and what does not seem morally permissible. Any disappointment caused by this ahistorical method is made up by the tight logic of the book and by the reader's awakened curiosity as to how the authors resolve the tension they have created by the collectivity of self-determination and the individuality of human rights.

Besides the lessons learned from colonialism and from the inadmissibility of outright annexation, the authors anchor their principle of collective self-determination in the principle's conceptual link to the alleged non-instrumental value of democracy. To those theorists who believe that "the case for democracy does not depend solely, or even primarily upon its instrumental value"[16] they point out that the only way to ground this kind of value of democracy is to adopt the principle of collective self-determination defended by this book. It is not that the authors themselves hold this latter position, for they don't. Rather, they mean to "have shown how our principles of political self-determination can account for the idea that democracy's value is more than instrumental and have argued that efforts to explain such noninstrumental value in terms of individual rights fail."[17] Their point is that the increased popularity of this idea can only be made viable by giving democracy a collective root instead of multiple ones, such as the liberty or equality of its individual citizens. If Jack lives in a democracy and Jill takes it over and makes herself the queen, she has not

15. *Id.* at 14.
16. *Id.* at 16.
17. *Id.* at 25.

simply wronged Jack but our intuitions tell us that she has also "den[ied] the group as a whole something,"[18] which shows that beneath the alleged right to democracy lies a moral right to *collective* self-determination that Jack together with his compatriots shared and which Jill has violated. This is the same right that the metropolitan powers violated in the era of colonialism. The book raises objections against theorists who seek to go from individual citizens' own autonomy or from citizens' equality to the noninstrumental value of democracy. Those objections are well crafted and anchored in the literature of political theory. Political theorists who want to hold on to the liberal idea that democracy has a noninstrumental value (in spite of the authors' counter arguments) can only do so if they are willing to accept the not-so-liberal idea of collective self-determination. This paradox has some unconventional conclusions.

For instance, the connection between democracy and collective self-determination is not as tight as it first appears. While the authors' "account of the noninstrumental value of democracy entails that a politically self-determining group has a right to have democracy… it does not entail that such a group *must* have democracy."[19] People can have a right and decide not to exercise it. This means that the right to democracy is not what we would call a "human right." For if the above named Queen Jill protects Jack's human rights better than the democracy he was in did, then Jill did not violate Jack's human right to democracy (because there is no such right), but she did violate Jack and his compatriots moral collective right to self-determination. The gap here is that the group to which Jack belongs can voluntarily forgo democracy and vote to live under some other legitimate form of government, just so long that other form protects everyone's human rights better or almost as well as Jacks' democracy did. This stance fits the authors' opening stipulation that by standard human rights they have in mind those listed in the Universal Declaration (UD) Articles 3–20 and 25–26,[20] which enumeration neatly and purposefully cuts out UD Article 21 with its stipulation that everyone has a right to participation in the government of his territory. Since the authors define "human rights to be moral rights to those things an individual needs to live a minimally decent life,"[21] and since that kind of life can in principle be found in nondemocratic states, they do not rank the right to democracy as a human right. Thus, the relationship between political self-determination and democracy is a complex one. The authors do not include democratic governance among the rights the international community *must* use to decide whether a group can make a claim to being a legitimate state. They hold back on this requirement because any group that fulfills the requisite political functions of a state has the right to voluntarily forgo democracy: "If, as we have suggested, there is no necessary connection between democracy and individual autonomy or individual equality, then a person has no automatic grievance if she is a member of a group, the majority of whom vote to waive its right to democracy."[22] They bolster this conclusion with the distinction between those things that are directly

18. *Id.* at 17.
19. *Id.* at 26.
20. *Id.* at 3.
21. *Id.* at 32.
22. *Id.* at 28.

needed for a minimally decent life (such as food) and those that are not, such as a democratic structure of government.

At the end of this crucial second chapter the authors address two worries that liberal theorists may have. First, they admit that "the case for a legal right to democracy need not depend upon a corresponding moral right."[23] Here they follow Buchanan in holding that there can be "multiple justifications for a legal right to democracy,"[24] the "most compelling" of which is based on the idea that usually democracy delivers the goods needed for a minimally decent life better than most any other form of government. Hence the authors do not oppose the contemporary push to add this form of government to the list of requirements for the recognition of states. They also assure their readers that their principle of collective self-determination does not conflict with our contemporary emphasis on "value individualism," which they define as "the considered conviction that individuals are the ultimate source of all that matters morally."[25] They disagree with the extent to which a theorist like Beitz sees a "disanalogy" between states and persons. They point this question at themselves: "If [voluntarily] suspending political self-determination is not a violation of the moral rights persons possess as individuals, then how can we assert that individuals are wronged when their group's self-determination is violated?"[26] The answer lies in the fact that "[g]roup membership is a feature of individuals just as much as their other features and is equally a potential object of respect or disrespect from others."[27] It follows that "legitimate states are owed respect in virtue of their ability and willingness to perform the requisite political functions."[28] "Put plainly, just as parents who competently and conscientiously care for their children are entitled to raise their children as they see fit, a group of citizens who are able and willing to perform the requisite political functions have a right to political self-determination."[29]

Having come to the end of the crucial second chapter where the principle of collective self-determination is laid out and defended and before I list the consequences of this principle I should briefly raise a concern I have with the authors' lack of specificity regarding the just-cited phrase, "the requisite political functions." This phrase is used in international law to capture the requirements a state must fulfill to be termed legitimate and thus be recognized by the community of nations. These requirements include having a territory, a government that controls that land, a people who are obedient to that government and, not least, the ability to make and keep international agreements. Since World War II, liberal theorists have wanted to add the protection of human rights and democratic structures of government to this list, but they have not yet succeeded in doing so. While the authors resist adding democracy as a requirement of a legitimate state, in the case of human rights they go to the other extreme and make that the linchpin of state sovereignty. Their key principle states that "a state has a moral right of political self-determination if and only if it

23. *Id.* at 35.
24. *Id.*
25. *Id.* at 37.
26. *Id.* at 38.
27. *Id.* at 39.
28. *Id.*
29. *Id.* at 39–40.

adequately protects and respects human rights."[30] This formulation ignores historical requirements for the legitimacy of states, leaving out, for instance, the land factor. Toward the end of the book, after repeating the need for a state to be able and willing to perform the requisite political functions, the authors admit that "we have not specified exhaustively which political functions are requisite, but we have argued that a state must adequately protect and respect human rights."[31] This exclusive emphasis on the protection of human rights in the authors' definition of state legitimacy makes this book a delight for human rights enthusiasts to read, but it also causes the book to float above and beyond the history of international law. It gives the book an ahistorical character and arguments. Let me now briefly list the conclusions the authors draw from their principle of collective self-determination of certain groups. Their arguments are well crafted and deserve our attention.

In Chapter Three (Secession), the authors steer a middle ground between statists "who deny that there can be unilateral rights to secede" (because secession involves taking away territory from existing states) and nationalists who place a higher value on self-determination and on the identity formation of groups of co-nationals.[32] Their middle ground comes from the recognition that "even if a state has the right to govern itself free from interference of *external* parties, it does not automatically follow that the state has the right to deny political self-determination to all groups *within* its territory."[33] Take the case of the independence of Quebec from the rest of Canada. The authors defend Quebec's right, but do not base that right on Quebec's unique cultural or national characteristics other than that Quebecois have a primary right to secede from Canada. Culture, language, or religion which are the usual criteria for these kinds of secessions, do not solve this legal conundrum. What really matters is that the people in Quebec have a collective right to self-determination. There are just two conditions: (i) as a group they must be willing and able to perform "the requisite political functions involved in protecting human rights,"[34] and (ii) the rest of Canada must remain a viable state. This is a very liberal outcome from the anti-liberal principle of political self-determination. The authors do not believe, as do many theorists of international justice, that existing states have a prima facie right to remain as they are. They do not stipulate that the existing state must be shown to have grossly violated the human rights of the group that wants to get out. This position puts them at odds with Allen Buchanan's view that the right to secession is "inherently institutional."[35] As we might have guessed from the abstract arguments in Chapter Two, the authors defend the "pre-institutional nature of the moral right to secede."[36] According to Buchanan's institutional view, if international legal institutions are available to help make secession happen, then the group might (under the specified conditions) have the remedial right to secede; if not, then not. Since international law has not yet reached that stage of development, the

30. *Id.* at 13.
31. *Id.* at 148.
32. *Id.* at 44.
33. *Id.* at 45 (emphasis in original).
34. *Id.* at 46.
35. *Id.* at 54–55.
36. *Id.* at 54.

authors recognize that "a virtual revolution in law would be needed to translate the moral right of secession that we have defended in this chapter into a [legal] right under international law."[37] They remain agnostic about whether it is a good idea to change international law at this time in that way, as Buchanan suggests be done, or not, as Horowitz argues. The authors do bring their abstract right down to earth in particular cases where it can (often with difficulty) be determined "whether the majority [of the group] favors secession and is willing and able to form a legitimate state," assuming "the remainder state would be able to perform the requisite political functions."[38] Their dissent then is only a theoretical one.

The question of secession covers what the authors call the "in-ward looking dimension"[39] of the right to self-determination. Chapters Four (International Criminal Law), Five (Armed Intervention and Political Assassination), and Six (International Distributive Justice) deal with "the out-ward looking dimension"[40] of the same right to self-determination. The prosecution of the leading Nazis at Nuremberg put limits on the principle of self-determination. Nuremberg inaugurated a series of international criminal tribunals that sought to mete out justice to the perpetrators of what we look at as "super-crimes." In Chapter Four the authors argue against conventional rationales, like the maintenance of international peace and security and the protection of humanity, for these Tribunals. Instead, they maintain that ordinary violations also call for the preemption of state sovereignty. These "may simply be ordinary criminal acts such as murder or rape committed in a state that is failing a minimum threshold for protecting the human rights of its people."[41] A state, like a parent, "has no right against third-party interference if she is starving, beating, sexually abusing, or otherwise violating her child's [read citizen's] human rights."[42] While this domestic analogy anchors the authors' position on the moral permissibility of broad interference with Westphalian sovereignty, most of the sections in this chapter still involve their evaluation of the legacy of Nuremberg's "super-crimes." In the end, the chapter does not go all that much beyond Nuremberg, for it is admitted that the ICC's demand that violations have to be "widespread or systematic" to warrant intervention is "relatively vague" but "points in the right direction."[43] Correct is their main objection that the ICC should start being less selective in its indictments, which are mostly handed down in Africa.

Chapter Five is also "outward-looking" in that it defends two deductions from the principle of self-determination: the permissibility of armed intervention and of political assassinations. In the former the authors move beyond the consensus that armed intervention should only be done in the case of a "supreme humanitarian emergency." They "suggest instead that the same threshold that determines when a state has the right to rule insiders ('internal legitimacy') also determines when a state has the right against interference by outsiders ('external legiti-

37. *Id.* at 58.
38. *Id.* at 65.
39. *Id.* at 69.
40. *Id.*
41. *Id.* at 70.
42. *Id.* at 77.
43. *Id.* at 81.

macy').”[44] They see countries like Saudi Arabia and China as “good examples” of nations that “lack a right to coerce insiders [because they have] a very poor human rights record, even though no supreme humanitarian emergency exists within [their] border[s].”[45] These countries thereby forfeit their protection against outside interference. The idea is not that countries like these should immediately be invaded. There is the theoretical point here that our reasons for not invading “do not stem from any right that these countries have against interventions aimed at stopping human rights violations.”[46] On the theoretical level the protection of human rights trumps the principle of collective self-determination. As we saw in Chapter Two, the latter defines and informs the former.

For armed intervention to be permissible those that would help in this manner do need “the consent of the rescued,” which is not the same thing as a so-called moral majority of those who are in peril. There must be some objective way of measuring the impact and possible success of any such invasion, for even, so the authors argue, when three of five abused and beaten children object to their being rescued, the authorities might still be justified in storming in and stopping a pistol wielding alcoholic father. This analogy is meant to make the point that “that human rights violations are sufficiently important to trump the preferences of the majority,” both in domestic situations and in international affairs.[47] When they do step down from the theoretical platform, the authors wisely make use of the principle of proportionality. They end the chapter speculating about what it would take to set up an institution under UN authority that would rule on requests submitted by coalitions of willing states which felt the time had come to assassinate a dictator who grossly violates his people’s human rights. Here too the protection of human rights trumps the right of people to pick and keep their own rulers.

Chapter Six begins with a rejection of the egalitarian cosmopolitanism that some theorists construct in response to John Rawls’ Difference Principle. This cosmopolitan kind of justice requires “an equalization of life prospects for all humans” no matter in which nation they live.[48] It would therefore conflict with the principle of collective self-determination because it is well known that people in different countries are born with very different and therefore unjust life prospects. Since “one’s country of birth is a matter of luck,” how can we square that fact with the universal protection of human rights for all people equally? The solution the authors offer is one of “relative egalitarianism” where the injustice in life prospects is defined “within a single society C . . . [where members of the community] are not only aware that others are faring considerably better/worse, they occupy relationships that are affected by these inequalities.”[49] It is oppression or the lack of it that morally counts the most. The “key issue concerns which inequalities facilitate oppressive relationships, not which ones owe their existence to mere luck . . . [International] justice is not concerned with all inequali-

44. *Id.* at 100.
45. *Id.*
46. *Id.* at 101.
47. *Id.* at 110.
48. *Id.* at 123.
49. *Id.* at 131.

ties, or even with those inequalities which have no source other than luck."[50] The implication is that even from a human rights perspective "it is not necessarily unjust for a person's life prospects to be substantially affected by the country into which he or she is born."[51] Just so long as the differences are not extreme. This conclusion fits the practice of international monitoring committees that construct thresholds below which countries that have ratified certain human rights conventions should not fall. Thus, the principle of collective self-determination is left intact, except for the problem of absolute poverty brought to our attention by Peter Singer and Peter Unger.

Both Singer and Unger believe that we all have a Samaritan duty to help and try to save as many of the millions of people who are starving on less than 2 dollars a day as we can. The authors accept this duty, and I quote: "As long as the infant is sufficiently imperiled and one can rescue her without sacrificing anything significant, it makes no difference what nationality the two parties are because Samaritan duties are owed to fellow *human beings*, not just to *compatriots*."[52] Again, we see that human rights and the living of a minimally decent human life trumps the principle of collective self-determination, making for a liberal theory of international justice. The authors accept Thomas Pogge's analysis of what causes this glut of global poverty and follow him in maintaining that the first principle for nations acting globally is to do no harm, or if they do, to do less of it than if they did not act at all. Take Sally, for instance. Her parents own a company that makes profits from prison labor, some of which they use to give Sally the good life at college. Sally is uncomfortable with the arrangement. Should she accept her parents' money? Should citizens of wealthy nations accept the comforts that come with their nations' bargaining powers in the global commercial world? How morally pure should she and we be? Here is the answer: "If accepting money from her parents is to be permissible, then Sally must assist in some substantial way efforts to establish due process and eliminate forced prison labor."[53] Like Sally, citizens of rich nations should lobby their governments to do a great deal more about absolute poverty than they presently do. We are faced with the "conclusion that there is a profound, collective moral failure of each wealthy state that contributes to the construction and maintenance of the current rules of the world economy."[54]

At this point the authors finally "disaggregate" their concept of sovereignty as they have been using it in their principle of collective self-determination. Just like individuals often "forfeit rights over certain, localized areas of their lives," so states must "forfeit parts of their legitimacy without necessarily forfeiting all of it."[55] Applied to absolute sovereignty this means that states "have no right to make loans to regimes that oppress and impoverish their own people, nor to sell such regimes military equipment used to bolster their power. More radically, wealthy states would have no right against interference by a group—call it a

50. *Id.* at 133.
51. *Id.* at 136.
52. *Id.* at 139 (emphasis in original).
53. *Id.* at 145.
54. *Id.* at 149.
55. *Id.* at 151.

poverty army—that was willing and able to stop the wealthy states from imposing their unjust global order, as long as the poverty army could succeed without imposing unreasonable costs of its own."[56] The authors do not explore in what way this last suggestion might conflict with present international law strictures. The chapter ends with a limited defense of the outsourcing of manufacturing jobs to foreign companies within the home jurisdiction. Much worse is the outsourcing of jobs to foreign countries, for those jobs must pass a test imposed by the absolute poverty problem. The authors put that problem bluntly: "The problem with offering to help people out of absolute poverty only if they make sneakers for you to sell in the United States . . . is that people in absolute poverty have Samaritan rights which entitle them to assistance without this condition."[57]

The seventh and final chapter (Immigration and Membership) returns to the inward-looking dimension of the principle of collective self-determination. Unlike the discussion of international criminal justice, where human rights took the lead, here the ideas of legitimacy and sovereignty take the lead. The authors reject the open border results of "luck egalitarianism" arguing that "it is horribly unjust that people should have . . . dramatically different life prospects simply because they are born in different countries."[58] They compare a state's right to take in or reject new members to a domestic club's right to select its members. Even though states are not quite like domestic organizations, the result is that states have at least a presumptive right to reject interlopers. Regional "clubs" of states like NAFTA and the European Union show this to be so: "Thus, despite being large, anonymous, and multicultural, people rightly care deeply about political states, and, as a consequence, they rightly care about the rules for gaining memberships in these states."[59] The principle of self-determination (which brings with it a right to freedom of association) gives states the right to control those rules. I quote: Just as an unmarried woman's "freedom of association entitles her to remain single a state's freedom of association entitles it to exclude all foreigners from its political community."[60]

Being philosophers, the authors stress that they are defending the right to self-determination as a deontological right, meaning that having it does not depend on any kind of calculations. That kind of "a right can be independent of, and largely immune from, consequentialist calculus, without being entirely invulnerable to being outweighed by all competing considerations."[61] The word "entirely" is the opening through which qualifications can and do enter. As by now has become clear, the authors do not base their exceptions on the fact that the world contains numerous states or "communities of character" determined by a shared ethnicity, language, culture or religion. They reject Michael Walzer's and David Miller's defense of these kinds of communities and instead "emphasize that any legitimate state is entitled to freedom of association."[62] Their outcome though is similar because, like Walzer

56. *Id.* at 152.
57. *Id.* at 155.
58. *Id.* at 167.
59. *Id.* at 164.
60. *Id.*
61. *Id.* at 165.
62. *Id.* at 166.

and Miller, they maintain that "a wealthy state's redistributive responsibilities can be discharged without including the recipient in the union."[63] Wealthy states can "simply transfer . . . the required level of funds abroad."[64] As with the arguments about distributive justice, we again end with the Samaritan duties that both states and individuals have toward "the masses of people in the world tragically imperiled by absolute poverty."[65]

The authors also reject the libertarian case for open borders. This forces them to finally bring to the surface the territorial factor that is so important in international law. So far in the book this land factor has been on the back burner while the principle of collective self-determination has held sway. Now it is admitted that:

> States must be sufficiently territorially contiguous in order to perform their requisite functions, and achieving contiguity requires them to nonconsensually coerce all those within their territorial borders. Thus, while it is perfectly intelligible to claim that individual dominion should always take precedence over state sovereignty, one cannot maintain this position without implicitly endorsing anarchism.[66]

While intelligible, it is not practical. "[B]ecause the costs of extending the benefits of political membership can be substantial, it makes sense that each individual should not have the right unilaterally to invite in as many foreigners as she would like. It is only appropriate that the group as a whole should decide with whom the benefits of membership should be shared."[67] The shift in this passage from a domestic to an international context is typical of the book's style of argumentation.

Since the word "liberal" in the book's title has to do with its use of human rights to pour content into the idea of state legitimacy, the libertarian emphasis on property rights puts the authors in a bind. They need to both justify overruling an individual's property rights and overruling a foreigner's right to movement and entry into other states. For domestic property owners they want to allow "sponsored visits" of foreigners that "come for a limited amount of time."[68] As to the foreigners' alleged freedom of movement and entry, they point out that that right is not absolute, for "Jack's right to freedom of movement does not entitle him to enter Jill's house without her permission."[69] Similarly, Jack does not have the right to enter a foreign country without its permission. Following Miller, the authors see no inconsistency between citizens having a right to exit a country (by being given passports) and being denied the right to enter some other country. Emigration and immigration are not one and the same thing.

That leaves us at the end of this probing book with the hot issues of absolute poverty and the need for asylum for persecuted foreigners. The answers are as expected: rich citizens of wealthy nations may not turn their backs on those starving in foreign nations and "[p]ermanent residence" is due to an asylum seeker "*only if* nothing was done to remedy the situation in the home state and no other state was willing to grant permanent residence."[70] When seven pages later

63. *Id.* at 168.
64. *Id.* at 173.
65. *Id.* at 174.
66. *Id.* at 176.
67. *Id.* at 178.
68. *Id.*
69. *Id.* at 179.
70. *Id.* at 181 (emphasis added).

they give us the general conclusion that "states are entitled to reject *all* potential immigrants, even those desperately seeking asylum from tyrannical governments,"[71] the authors ignore the crucial "only if" qualification of the earlier passage. These conflicting italicized phrases show that the authors' real interest lies in establishing certain principles for a liberal theory of international justice, which may be qualified in specific cases as determined by qualified international tribunals or domestic courts or agencies. Another principle they enunciate in this final chapter on immigration is that "a country may not institute an immigration policy which excludes entry to members of a given race because such a policy would wrongly disrespect its own citizens who belong to the dispreferred category."[72] Like most other principles they discuss, this one too cannot be readily implemented: "[e]mpirical uncertainties abound and make many moral disputes about international affairs irresolvable until much more is known about the conditions and consequences of various courses of action."[73]

These "empirical uncertainties" have not prevented the authors from offering us "a theoretical framework that can help guide normative inquiry,"[74] in various areas of international justice. They have taken the anti-liberal principle of an irreducibly collective right to political self-determination and creatively blended it with the liberal protection of human rights. This provocative blend has led them to subscribe to a primary (instead of a remedial) right to secession, to include ordinary human rights violations (and not just super-crimes) in the jurisdiction of international criminal tribunals, to condone armed intervention and political assassinations, to defend a relative but not a total economic egalitarianism, and finally to condone the right of legitimate states to close their borders. We must commend them for doing all this in a mere 200 pages. They shunned historical analyses and opted instead for abstract philosophizing, which struck us for the most part as a worthwhile trade-off. It is not often that one meets a Jack and a Jill and a Sally and their parents and sundry colleagues in a terse treatise on international justice. While they are a reprieve these fictional characters also presents the reader with a challenge. They represent an incursion of standard domestic legal insights into the territory of international legal theorizing. States are not persons but in this book they are often looked at from the personal perspective. This recurring shift can be experienced as a distraction or, as was the case with this reviewer, as a fresh new look at some standard questions of international justice.

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71. *Id.* at 188 (emphasis in original).
72. *Id.* at 186.
73. *Id.* at 191.
74. *Id.*

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