

Global Justice and International Economic Law—Three Takes

by Frank J. GARCIA.

New York: Cambridge University Press, 2015. xi + 348 pp. Paperback: \$34.99.

doi:10.1017/S2044251316000357

Garcia reminds us that states, like individuals, disagree on almost everything. *Liberal* states, in their international interactions with others, take joy in acting in accordance with their own principles, their own moral convictions, at times even unilaterally. Perhaps as a way to play down such intensified global order, *globalization* seems to have brought states a bit closer to one another in terms of shared understandings. But this phenomenon, irresistible though it has been, cannot as yet establish global justice because, while it has solved some problems, it has also created others. Unsatisfied with both international liberalism and globalization as sufficient tools for conceptualizing and furthering the idea of a truly *global* justice as it relates to trade, Garcia has searched for a new way—that is, by (re) theorizing around one particular core condition immediately fundamental to trade relations, one condition upon which any type of states might readily agree: consent. This is to ensure that trade agreements among states are really about consensual trade activities and not “theft, coercion, exploitation or the like”.

It is important to note that Garcia does not contend that liberal and globalization theorists have been wrong. Far from it. The aim of his book is to craft a plural approach (citing Amartya Sen’s “plural grounding”) that attempts to shrink gaps found in previous theories. To do so, the book extends Rawls’s “Justice as Fairness” to the explanation of why liberal states conduct their foreign policy the way they do, according to their (domestic) commitment to moral equality in terms of distributive justice, indeed to integrity regardless of whether non-liberal states share the same commitment. As such, Take One using Justice as Fairness speaks more immediately to the liberal foreign policy rather than to global justice. In other words, Fairness doesn’t seem that fair after all, globally. In Take Two, both Contractarians and Communitarians still have trouble explaining global justice. On the one hand, the social contract on which domestic political theory stands cannot enjoy the same existence when it comes to the transnational arena beyond national boundaries. On the other hand, communitarians have an even harder task because they search for a single-community-like world that has not existed. Coming to their rescue, globalization has offered a more relational mode of justice that is predicated on a “dynamic” existence of relationships between states; it takes into account the constant transformations in social relations as opposed to the somewhat “static” concept of one’s own principles as expressed in the Integrity Mode of Justice.

But despite its appeal, globalization falls short. From Garcia’s international law perspective, law is not the most effective tool that can resolve state conflicts because the current system of international law cannot escape from the liberal versus non-liberal mindset. In Take Three, Garcia attempts to build a more just global order through a certain type of global rule-making that originates from genuinely consensual exchanges because “creating a framework for genuine trade ... may well be the most we can agree to in our transnational relationships with all manner of states, liberal and nonliberal alike” (p. 44). This new Transactional Mode of Justice does not face the limits in Take One Integrity (one’s moral commitments) or Take Two Relational Mode (certain types of relationships), but would allow justice to flow from the transaction itself, one that is “satisfactory to both parties” (p. 45).

Garcia’s call for establishing a “global framework for consensual bargaining” and what this entails, of course, requires more experiments to prove its worth. But I dare say that readers will find his theoretical contribution multidimensional, and would be content with the many other elegant concepts that illuminate almost every page. This book should arouse interest in political scientists, legal theorists, and even economists.

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