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Recommended Citation

Gidon A. G. Gottlieb, "Book Review (reviewing Oscar Shachter, *Sharing the World's Resources* (1977))," 78 *Columbia Law Review* 1568 (1978).

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BOOK REVIEW

SHARING THE WORLD'S RESOURCES. By Oscar Schachter.
New York: Columbia University Press, 1977. Pp. 172. \$7.95.

*Reviewed by Gidon Gottlieb**

In his stimulating book, Oscar Schachter gives us a thoughtful analysis of the complex principles of justice and equity being developed by the community of nations for sharing the world's resources. The scope of his work is bold: he examines ocean space, water basins and rivers, and, to some extent, the atmosphere and the general environment, as well as problems of exchange and transfer of goods and services. In a path-breaking chapter, he considers the pricing of raw materials, monopolistic and oligopolistic restraints, the transfer of technology and the relocation of industry, the regulation of multinational companies and foreign investors, and the responsibility to prevent famine and malnutrition. In his analysis of the current demands for a more equitable economic order, he studies the idea of "just prices" and its relationship to the classic economist's notion of the market price.

Schachter demonstrates that the sharing of world resources should involve more than considerations of economic gain and bargaining. It is bound in the profoundest sense with ideas of morality and justice. This arises, he claims, from the necessities of contemporary international relations since states are often driven to enter into cooperative arrangements to safeguard their economies, sustain domestic growth and development, and compete for their share of the world's wealth. He argues that states facing this task must have "a basic agreement or shared conception of principle for the distribution of benefits and burdens Without such agreement, it becomes virtually impossible for governments with divergent interests to maintain continuing cooperation and a stable association." (P. 143). It is this requirement that "provides the basis for the application of standards of equity in international decisions. The ideal of distributive justice may thus be seen as grounded in the rocky soil of international conflict and the felt necessities of collaboration." (P. 143).

He also demonstrates how the idea of distributive justice can be given determinate content and political weight in the process of claim, bargaining, and negotiation. Schachter does not prescribe or recommend—he guides the reader through the maze of international arrangements on entitlements and competing claims. But he stops well short of overstating his thesis—he does not argue that we are at long last likely to achieve distributive justice among nations.

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The strength of the argument lies in the abundant and consistently important illustrations from the practice of states. In the best tradition of legal scholarship, his argument is anchored in specific situations and references. This is a tradition that requires patient inquiry of the "living law," of the way in which law is used and developed in society, of the practices, claims, and demands which harden into accepted norms and standards.

Three questions arise about Schachter's thesis on which his views are not disclosed. First, what is the proper weight to be assigned to considerations of interest and power in the practice of states where the sharing of resources is concerned? Schachter's intimate knowledge of the U.N. system disposes him to emphasize states' verbal behavior. In the economic area, as in other fields of international concern, the language of principle and right has come to displace the language of interest and power.¹ This may be an unavoidable feature of public parliamentary diplomacy which hardly lends itself to the rhetoric of give-and-take. Use of the language of principle and right, of the language of claims of entitlement and distributive justice, signals moreover a rejection by the dominant coalition in the United Nations of economic relations based upon market principles and the free play of economic forces. The advocacy of managed economic relations in the international arena mirrors the authoritarian economic "*dirigisme*" of the great majority of states. The market system is rejected both domestically and internationally. The new order which they advocate is conceived instead in terms of claims of entitlement, distributive justice, just prices, and equality.

Yet the contrast between international verbal behavior, in the legalistic-moralistic mode, and the actual practice of states anchored in power is everywhere to be seen. International demands for a new international economic order made themselves felt in earnest only after the oil boycott of 1973 and the OPEC cartel's successful price increases. Substantive economic bargains are not shaped in public diplomatic assemblies. Accords on questions affecting currency, prices and levels of oil production, arms deals, and investments are struck in more discreet settings. These are later reflected in the protracted processes of multilateral negotiations which often merely formalize private agreements. Considerations of justice and equity do not often structure the outcome of such bargains. The fact that agreements might be couched in the language of high principle does not demonstrate that high principle was the guiding factor. What is still needed is a proposed demarcation of the proper spheres of the self-interest principles on which economic bargaining theories of negotiation are founded and of the principles of justice and law which dominate Schachter's interpretation. It is difficult to conceive at this time how this demarcation can be achieved. Legal analysis will have to take account of theories of the bargaining process like those of Zeuthen and Harsanyi that entirely disregard any concept of norm or prin-

1. For an analysis of bargaining from these perspectives, see the collection of essays in *BARGAINING, FORMAL THEORIES OF NEGOTIATION* (O. Young ed. 1975).

inciple. Nevertheless, Schachter's fundamental thesis that sustained cooperative relations do require a broad, shared, normative structure is well borne out by the ample evidence he produces.

The second question is whether considerations of justice and equity import demands for the scrutiny of the domestic behavior of states, for the assessment of their human rights performance. The ideological rejection of economic relations based upon power interests and the "invisible hand" has a dialectic force of its own. Once standards of justice and equity are pressed to govern the sharing of world resources, it becomes increasingly difficult to resist their use in assessing the domestic behavior of regimes whose record on economic rights, not to speak of civil and political rights, is ambiguous at best. Once claims of justice are pressed in the international economic area, it remains to be seen how long it will be possible to contain international concern for the realization of these rights domestically. At present, the principles of nonintervention in the domestic affairs of states and of the sovereign independence and equality of states are invoked to resist such international concern. The connection between principles of distributive justice and respect for human rights, even for societies in which economic rights are asserted to take precedence over political rights, is latent in the perception that *no just international economic order is possible so long as it is dominated by unjust domestic societies*. The United States Congress is already committed to provide safeguards against the possibility that authoritarian governments which deprive their citizens of basic political and human liberties divert U.S. assistance from its intended purposes or use such assistance to bolster their repressive regimes.² The connection between human rights and the international order is asserted in article 28 of the Universal Declaration of Human Rights itself.³

The third question, which requires considerable delicacy, is whether the ideals of distributive justice and of equity can be promoted by cooperation with tyrannical and corrupt regimes. In other words, the world's resources should be shared, but with whom? Are we talking about equality for states or for the people within them? The new states' claims to remain free from intervention must be given considerable weight if only because the colonial period was not marked by impressive advances in the conditions of colonial peoples. The need for a candid appraisal of economic cooperation with the less palatable regimes remains. Tact and imagination are required to share resources effectively with the most deprived peoples of the planet who, to compound their misery, are often afflicted by repressive governments. No principle of justice would be compatible with a failure to distribute the benefits of the world's economy to the least developed countries on account of the political conditions in those countries. The problem is not one of principle but of effectiveness. One can hope that Professor Schachter will share his thoughts on these matters with his readers.

2. See 22 U.S.C. § 2151n(a) (1976); H. REP. No. 406, 94th Cong., 1st Sess. 34-35 (1975).

3. "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized."

The deep shift to a legalistic-moralistic mode in bargaining over world resources is tied to the prominence of human rights questions which are at the core of legalistic-moralistic discourse in international affairs. The link between the principles of distributive justice and respect for human rights is a measure of the authenticity of the demands advanced in the name of justice. This link affirms that economic changes demanded by developing countries must be carried out for the benefit of their populations, that justice is not for "states" but for their inhabitants. Governments with a reputation for repressive and corrupt rule are active claimants for international justice. By and large, such governments have demonstrated little concern with claims of justice, distributive or otherwise, in their own societies. They press demands internationally which they neglect domestically. A reaction must be expected. Robert Tucker has even contemplated the possibility that some might demand intervention against any government that failed to use transferred wealth for the benefit of the worst off.⁴

Reports are coming from newly wealthy countries like Venezuela and Indonesia that the new oil revenues are benefiting only a narrow class. Development has meant a deepening gap between the masses and the new privileged classes. It has also meant inflation and exorbitant prices for necessities. Principles of distributive justice invoked internationally can result in deepening inequalities domestically. There are very few instances in which repressive or corrupt rule has enhanced the economic conditions of the peoples so ruled. Western elites share with the South's leaders the rejection of the present inequalities of income, wealth, and power. But Western sensibilities weighted by guilt for colonialism and racism continue to exhibit tolerance for the worst excesses of the South's rulers. Western elites give these rulers credit for attempts to manage their own societies in their own way. Reference is frequently made to the West's own tortuous and lengthy path to respect for human rights and social welfare. Atonement for the brutality of earlier generations, rather than a genuine commitment to the effective improvement of the fate of the destitute masses of the Third World, appears to inform prevailing Western elite attitudes. A genuine commitment to the principles of distributive justice would require greater concern for the filtering down of transferred wealth and resources.

Throughout the book, Schlachter has resisted the temptation to engage in philosophical arguments. Despite notable contributions by Gary Runciman and John Rawls,⁵ theories of distributive justice offer little guidance for the treatment of deprived *groups*. Under American law, the equal protection principle is now argued to warrant favored treatment for the most disadvantaged groups in society. In international relations, the analogous principle would require special measures in favor of the least developed countries. Justice for groups remains a difficult question for philosophers and diplomats

4. Tucker, *Egalitarianism and International Politics*, 40 COMMENTARY, Sept. 1975, at 27-40.

5. J. RAWLS, *A THEORY OF JUSTICE* (1971); G. RUNCIMAN, *RELATIVE DEPRIVATION AND SOCIAL JUSTICE* (1966).

alike. In a perceptive review of some of the Rawlsian literature, Robert Amdur summarized the state of the art rather simply, "Rawls has little to say about relations *between* societies Concerning the distribution of wealth among nations, *A Theory Of Justice* says nothing at all."⁶

This is precisely where Oscar Schachter's work is a major contribution to the theory of justice. Characteristically, he goes about making his points unassumingly and with great precision. The product is a rare and valuable blend of general principles and detailed particularity. He is able to refute the overly pessimistic view, which enjoys a certain vogue today, that a minimal consensus on the principles of distributive justice is nowhere in sight.⁷ He demonstrates—where others argue—how international moral obligations are developed and accepted. The peculiar mix of moral normative principles relating to needs and entitlement and their applicability, for example, in doctrines about permanent sovereignty over natural resources, does not lead to a prescription for a master order of values for all situations. On the contrary "[i]n our pluralistic and heterogeneous world such a master order would be neither sensible nor feasible. What we might reasonably expect and seek to promote is a more sustained effort to identify and clarify the multiple goals shared by most peoples and to relate these goals to specific situations and proposed actions." (P. 33). And he adds, "A process of concretization should occur so that diverse situations may be distinguished for purposes of ordering priorities and goals." (P. 33). He suggests that "[w]e can already see this in the special categories emerging for international preferences—the desperately needy Fourth World, the underdeveloped but financially prosperous oil producers, the landlocked countries, the desert areas, the resource-poor industrialized countries and those threatened by environmental damage. . . ." (P.33).

His concern with equity does not blind him to the other major goals of states. We cannot escape from the reality of pluralist goals and the necessities of trade-offs and compromise.

This slender volume should be essential reading for a number of audiences—those concerned with the world economy or with global bargaining, those interested in the theory of justice, and students of jurisprudence. In an age in which a deluge of printed words reflects the narrowing of specialization, it is a pleasure to recommend a book which makes a genuine contribution to issues which no educated person can neglect.

6. Amdur, *Rawls' Theory of Justice, Domestic and International Perspectives*, 29 *WORLD POLITICS* 438 (1977).

7. See, e.g., R. TUCKER, *THE INEQUALITY OF NATIONS* 177 (1977).