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978-0-521-70959-0 - The Liberal Project and Human Rights: The Theory and Practice of a New World Order

John Charvet and Elisa Kaczynska-Nay

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The Liberal Project and Human Rights

The 'Liberal Project' aims to transform society in accordance with liberal values and practices. This volume argues that the United Nations regime on human rights is an attempt to realize this project on an international level. The authors provide an engaging theoretical and historical context for this argument, defining the concept of liberalism, its origins and evolution, and identify it as a universal value that constitutes the very essence of the international human rights regime. The book explores the possibility of a cross-cultural consensus on the issue being reached, but problems of sovereignty and nationalism are also discussed as potential obstacles to the liberal project's completion. This penetrating and insightful work will appeal to a wide range of scholars and students interested in liberalism and human rights from the fields of international relations, law, political theory and political philosophy.

JOHN CHARVET is Emeritus Professor of Political Science at the London School of Economics.

ELISA KACZYNSKA-NAY is a lawyer and researcher in economic development and international law.

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*For our children and grandchildren
Emma and Rosa, Vera and Oliver and
in memory of Guy*

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Abbreviations

ACHPR	African Charter on Human and Peoples' Rights
ACtHPR	African Court on Human and Peoples' Rights
ACHR	American Convention on Human Rights
ADF	African Development Fund
BLIHR	Business Leaders Initiative on Human Rights
CAR	Central African Republic
CCA	Common Country Assessment
CDF	Comprehensive Development Framework
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CHR	Commission on Human Rights
CIS	Commonwealth of Independent States
CMCOE	Committee of Ministers of the Council of Europe
COE	Council of Europe
CP	Cultural and Political
DAC	Development Assistance Committee
DAF	Development Assistance Framework
DPI	Department of Public Information
DRC	Democratic Republic of Congo
E7	Seven largest emerging market economies (China, India, Brazil, Russia, Indonesia, Mexico and Turkey)
ECHR	European Convention on Human Rights
ECOSOC	Economic and Social Council
ECOWAS	Economic Community of West African States
ESC	Economic, Social and Cultural
FDI	Foreign Direct Investment
FRY	Federal Republic of Yugoslavia
G7	US, Japan, Germany, UK, France, Italy and Canada

GA	General Assembly
GATT	General Agreement on Trade and Tariffs
GDP	Gross Domestic Product
GNP	Gross National Product
HAP-I	Humanitarian Partnership Accountability International
HCHR	High Commissioner for Human Rights
HDI	Human Development Index
HIPC	Heavily Indebted Poor Countries
HRC	Human Rights Council
HRDR	Human Rights Development Report
HRIA	Human Rights Impact Assessment
IACHR	Inter-American Commission on Human Rights
IBRD	International Bank for Reconstruction and Development
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for Yugoslavia
IDA	International Development Association
IFC	International Finance Corporation
IFRC	International Federation of Red Cross and Red Cross Societies
IGOs	International Governmental Organizations
ILO	International Labour Organization
IMF	International Monetary Fund
INGOs	International Non-Governmental Organizations
LRA	Lord's Resistance Army
MDGs	Millennium Development Goals
MDRI	Multilateral Debt Relief Initiative
MICs	Middle-Income Countries
MIGA	Multilateral International Guarantee Agency
NAM	Non-Aligned Movement
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organizations
NIEO	New International Economic Order

OAS	Organization of American States
OAU	Organization of African Unity
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
OEWG	Open-Ended Working Group
OHCHR	Office of the High Commissioner for Human Rights
PDD	Presidential Decision Directive
PRSPs	Poverty Reduction Strategy Papers
R2P	Responsibility to Protect
RTD	Right to Development
SC	Security Council
SPIRI	Stockholm International Peace Research Institute
TNCs	Transnational Corporations
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCCAs	UN Common Country Assessments
UNCF	UN Children’s Fund
UNCTAD	UN Conference on Trade and Development
UNDP	UN Development Programme
UNESCO	UN Educational, Scientific and Cultural Organization
UNGA	UN General Assembly
UNHRC	UN Human Rights Committee
WDR	World Development Report
WHO	World Health Organization
WTO	World Trade Organization
WWF	World Wildlife Fund
WWI	World War I
WWII	World War II

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Preface

Our concern in this book is with rights-based liberalism as a way for human beings to live together in peace and justice at both the domestic and international levels. Our aim is to explain its theory and practice but also to defend and commend it as a better way than alternative schemes of human association.

The heart of what we call the liberal project for world order has now become the United Nations human rights regime, the discussion and evaluation of which constitutes the centre of this study. Many books have been written on this regime on the one hand and on liberalism on the other. A few combine the two: the best of which being J. Donnelly's *Universal Human Rights in Theory and Practice*. There is also an excellent book on the evolution of international human rights in Lauren's work of that title. However, what is distinctive about our book is that it situates the UN human rights regime in the context of an evolving international society of sovereign states, the character of which we see as shot through with liberal assumptions. We show this by exhibiting the nature of liberalism as a theory and by revealing the affinities between liberal theory and the developing practice of state sovereignty both domestically and internationally.

After an introduction in which we explain what we understand liberalism to be, Part I is a study of the historical context from the seventeenth century, covering both early rights-based liberal theory and state practice in which the UN commitment to a strong human rights programme came to be made. Part II is devoted to an account of the UN regime, understood in a broad sense to include the international human rights activities of regional organizations, liberal states and international non-governmental organizations whose influence is significantly dependent on the existence of the UN regime. While we examine in some detail the content and implementation of the main rights, a major concern of ours is how they relate to and form part of the liberal scheme.

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Part III is a theoretical defence of liberal human rights against liberalism's critics. Chapter 9 examines the principal attacks on liberalism in the Western intellectual tradition. Chapter 10 discusses the conflict between liberal human rights and some major non-Western ethical cultures and explores the resources in these cultures for accommodating the liberal ethic and, consequently, for arriving at an international consensus on liberal values from different cultural perspectives. Finally, Chapter 11 draws together the main points made against liberalism's critics and attempts to get to the root of ethico-political hostility to liberalism.

While both authors endorse the general approach and line of argument of each part of the work, John Charvet, as a political theorist, has been responsible for the introduction, Parts I and III and the more theoretical sections of Part II, and Elisa Kaczynska-Nay, as an economist and international lawyer, has written most of Part II.

Many colleagues, students and authors have over the years contributed substantially to the development of our ideas on the issues covered in this book. This includes the students on the course we both taught at the LSE summer school on the theory and practice of international human rights. To name them all would be impossible but without such a background and inspiration this work could not have been written. However, we are particularly indebted for reading and commenting on parts or the whole of versions of this work to John Braithwaite, Anne Charvet, Po-chung Chow, Sheila Fitzgerald, David-Lloyd Thomas and Axel Seemann. They have kindly attempted to save us from error and cannot be held responsible for the many that undoubtedly remain.