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IS ‘THE PEOPLE’ THE BEST WAY TO  
MAKE OUR GLOBAL WORLD JUST?  
SOME REMARKS ON  
WENAR’S *BLOOD OIL*

BY  
INGRID SALVATORE

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# Is ‘the People’ the Best Way to Make Our Global World Just? Some Remarks on Wenar’s *Blood Oil*

Ingrid Salvatore

**B**lood *Oil* is a wonderful book. It is a book of philosophy, geo-politics, history, social sciences, law. While it is not a book for experts, no technical question is avoided. Rather, in the second part in particular, very sophisticated metaphysical, juridical and philosophical problems are dealt with in a simple and accessible way.

Its specific topic is a detailed analysis of the so-called ‘curse of natural resources’. This is the phenomenon according to which, contrary to what one might expect, the more a country is endowed with rare and precious mineral resources—from oil to diamonds, silicon and so on—the higher its chance of being authoritarian and dominated by a brutal dictator, and its people poor.

The book focuses on oil, as one of the most precious goods that developed and developing countries need to sustain their own economies, although a similar story could be told for many other materials.

From a theoretical point of view, one way to approach the book is to see it as offering an explanation for the curse of resources, showing how the correlation between mineral resources and political condition is not a spurious one. Appropriate mechanisms (or an appropriate theory) can be

offered to explain both why this phenomenon occurs and why, in certain circumstances, it does not; Norway being an eminent case in point (p. 11, p. 56).

When pre-existing institutional arrangements are weak, mineral resources ‘dope’ the country (p. 9), allowing an elite already in power to gain complete control over the country’s resources and complete sway over its people as a consequence. The huge amount of money acquired by the elite, through selling their country’s resources on the global market, are the means by which it holds on to power, buying either weapons and soldiers to suppress any form of rebellion or acquiescence to it; expanding the bureaucratic apparatus; reducing taxation and using money to pit one oligarchy against the other and thus ruling over the division (*divide and rule*, p. 26, see also pp. 41ff).

The most distinguishing feature of the book, however, is that once the political impact of the global market on countries endowed with mineral resources has been explained, a second, less appreciated and less understood, ‘phenomenon’ appears. This is the phenomenon of the irrelevance of popular sovereignty in the matter of resources.

The large majority of us probably consider the political situation in countries suffering from the curse of natural resources to be disastrous and unjust. We see their ‘rulers’ as authoritarian or dictatorial. We feel concern when they violate human rights. And we judge the institutions they create, if any, as unjust.

However, when it comes to resources no particular consequence follows on from this.

We believe that those populations are in some way exploited, but we continue to carry an iPhone (silicon), heat our houses (gas) and buy products that either contain oil (the possibilities are

almost endless; Wenar's partial list is disconcerting, ranging from asphalt to shampoo, aspirin to vitamins: p. xxxvi) or depend on it.

Part of this phenomenon, according to Wenar, is easily explained. The chain connecting what we own to those regimes is long and very complex (p. x). We do not know, because of this complexity, where either our mobile phone has been assembled or the components to assemble it have been produced. Even less do we know where the minerals to produce those components came from.

But this is not the essential point. Most important is the fact that we *own* our mobile phone, as we do any of the artefacts that we can *buy* (as distinct from *appropriate*) on the market. We *legally* possess them, according to laws of *our own* state (p. xxv).

The fact that we can legally possess artefacts that ultimately depend on mineral resources shows that whoever is controlling the mineral resources of a country, irrespective of the way in which they took that power, we recognise as being entitled to do that (p. 103, p. 254). It has not happened by chance. For it relies on the fact that the chain of resources ultimately rests on an implausible rule of effectiveness (p. 74), stated by Grotius in 1625 (p. 137) and enshrined in the Westphalian consensus of 1648 (p. 142). On the matter of resources, according to Wenar, it is still true that a conqueror has the right to rule conquered territory and that 'all the nations must recognize these titles to territory and property' (p. 142). On the matter of resources we continue to apply, whether explicitly or implicitly, the old and discredited notion that 'might makes right'; a principle that we nonetheless explicitly deny in both our signed international treaties and our public culture (p. 138).

The consequence of focusing on this aspect of the resources chain is that the political recipe we are being offered in *Blood Oil*,

in normative terms, does not reveal what those countries should do in the first place nor what we should try to make those countries do, but rather what *we should do in our own countries*.

This is a fundamental point, both in political and theoretical terms.

Wenar's main interest is in clarifying how, if the mineral resources necessary for producing all that we eat, wear and use *are stolen*, then our legal systems validate something that is already illegal according our own legal systems (pp. 148ff, esp. p. 150). We should not.

In critically discussing this book, the task I wish to accomplish is to raise questions; but my questions should be taken as being addressed as much to the author as to myself. I will start by describing two background aspects of the book that I found particularly helpful and original, both theoretically and politically, for defending globalisation as a process we need to govern politically, not fight against contrast.

Next, I will pose my questions. I will concentrate on the philosophical part of the book (part III, in particular). Despite the author discussing the question at length (sorry about that!), I will raise questions on the role that the people, as owners of a country's resources, are called on to play in Wenar's thesis.

I will try to describe persisting difficulties in identifying the people, the nature of the rights they are supposed to have and the necessity of this notion.

Finally, I will raise some questions on the problem of authorisation, which Wenar also discusses.

## I

### **Globalisation Is Not the Devil (But It Can Become the Devil)**

The first pages of *Blood Oil* present a series of data showing how, in the last decades, the life of people at a global level has never been better, on many fundamental aspects. Although much remains to be done, rates of maternal mortality, malnutrition and poverty have never been so low, the rate of literacy never so high (p. xii).

Thanks to globalisation, more and more people in underdeveloped countries have had the chance to enter the wider market, producing goods for the richest countries and improving their living conditions.

Yet at the same time, we in the rich countries are facing the rise of social and political movements strongly opposed to globalisation. The reflexes of national sovereignty are permeating many countries and many political movements are embracing them. Parts of these movements explicitly declare themselves to be right-wing, and from this point of view one ought not to be surprised by such revanchist resurgence. Nationalism, national sovereignty and national identity have long been part of their political patrimony, after all. What comes instead as a surprise (not to say alarm), is the fact that while the right is waving its revanchist and nationalistic slogans, we hear no alarm bells on the part of the left. What we do observe is a certain timidity in contrast with the right’s slogans, not to say a certain fascination for the very same ideas<sup>1</sup>.

<sup>1</sup> L. Ramiro, R. Gomez, “Radical-Left Populism during the Great Recession: Podemos and Its Competition with the Established Radical Left”, *Political*

The working class, as a result of immigration and delocalisation (an aspect of globalisation) provoking its actual or feared impoverishment, is shifting from the left to the right (Brexit, Trump, Lega and Five Stars in Italy, Farage in the UK, Le Pen in France, to mention but a few). Its traditional representatives are following them.

But while the social phenomenon is perfectly understandable, the political answer is not.

Not only it is politically disarming—do we really believe that Italian workers deserve more protection than Ghanian workers? Were we not told *Workers of the World Unite!*—it is also dangerous. Masking the difficulties we face in offering political answers to globalisation (especially on the left) with general anti-globalisation attitudes, we confuse problem with solution.

By treating the problems thrown up by globalisation as being addressed specifically to us, (viz. western countries) Wenar disarms anti-globalists of two main arguments they often appeal to in order to obfuscate their difficulties and embarrassment.

One of those arguments is that controlling globalisation can be reduced simply to the West exercising political control over other countries in order to promote its own interests, by either imposing and/or supporting acquiescent authoritarian regimes (the Shah of Iran, 1941, p. 85) or exporting democracy on the wings of fighter-bombers (Iraq, p. 87; and more recently, Libya, p. 45). Nevertheless, as Wenar maintains, anti-globalists are right to reject these kinds of interventions. According to Wenar, each

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*Studies*, 1 (suppl), 2016, pp. 108–126; L. March, "From Vanguard of the Proletariat to Vox Populi: Left-Populism as a 'Shadow' of Contemporary Socialism." *SAIS Review of International Affairs*, 1, 2007, pp. 63–77.



intervention can be seen as a phenomenal failure of Western foreign policy, creating fear and political instability for us and human disaster for them (p. 86). What anti-globalists are wrong on, is maintaining that this is all that governing globalisation *can* and *should* be.

Governing globalisation is a process that starts at home, according to Wenar. In this way he severs the connection between unjust and arbitrary intervention in other countries and global policies.

By insisting that that the burdens of governing globalisation fall to *us*, more than and ahead of others (non-western countries), Wenar also cuts the link between globalisation and the social injustice that feeds so much of anti-globalism. While Wenar is more interested in regulating the sale of resources, his idea that governing globalisation is a question of *reshaping our institutional arrangements and laws* carries with it the idea that such a reshaping will be possible and feasible only if we succeed in not offloading the main costs of globalisation onto the working class.

Regardless of whether rhetorical arguments can often sound redundant, it does not seem inappropriate here to remind politicians as well as the wealthy classes that the marriage between nationalism and the working class has already happened once before in Europe, the result of which was Fascism, Nazism (never forget: National Socialism) and the war.

Globalisation is not the devil, but it can become the devil if we do not find the appropriate political instruments for controlling it. This is not a matter of realism; it is a matter of justice.

Globalisation is a chance for poor and oppressed populations to improve their living conditions. To govern it, is to make it possible. This leads me to the second point I want to underscore.

## II

### **Realism and Idealism: a Happy Mix**

After decades of debate focused on normative political philosophy, a recent trend in political philosophy is to criticise ideal, normative theories on realist bases.<sup>2</sup> Realists do not consider the ideal approach a promising way to understand politics and political philosophy.<sup>3</sup>

Much of what there is about this new realistic trend is directly and explicitly connected to the positivist philosophy of law: the direct target of some Wenar's passages in *Blood Oil* (Kelsen, p. 212; Holmes, p. 209).

The work of the old philosophers of law was to surgically sever law (the guarantor of political order) from morality, avoiding any possible contamination of the latter by the first. Seen as part of metaphysics, morality could only be the source of intractable conflicts, making political order impossible.<sup>4</sup>

Conflict is also the prominent question of the new realism and that by virtue of which ideal approaches are criticised.<sup>5</sup> The ideal approach, according to realists, far from severing politics (law) and morality, appears to take for granted that conflicts can always be harmonised in a systematic theory of justice. But there is no

<sup>2</sup> For an examination of realism, see C. Burelli, "Verso una concezione realista della politica: Conflitto, ordine e realismo politico", *Biblioteca della Libertà*, 51, 2016, pp. 23–47.

<sup>3</sup> B. Williams, *In the Beginning was the Deed: Realism and Moralism in Political Argument*, Princeton University Press, 2005.

<sup>4</sup> H. Kelsen, *Introduction to the Problems of Legal Theory*, Translated by B. Litchewski Paulson and S. Paulson, Clarendon Press, 1992.

<sup>5</sup> B. Williams, *In the Beginning was the Deed: Realism and Moralism in Political Argument*, Princeton University Press, 2005.

guarantee, according to realists, that people share or can come to share a sufficient portion of their values to attain a just social order, and there are many reasons to believe that conflict is a much more pervasive affair.<sup>6</sup>

Given the requirement for the absolute moral neutrality of the state, the realist view of international relationships comes as no surprise. States are not supposed to base their reciprocal recognition on anything moral. National interests must be the only guide for politicians in their relations with other nations (p. 209, p. 212).

Because Wenar's book proposes not an ordered world but a just one, it is clearly a denial of such a claim. But it is the way the rejection takes place that is interesting. From a philosophical perspective, it helps to spread light on the opposition between realism and the idealist position.

As with the old ones, the new realists, assuming that the problem of order is the eminent political problem, are interested in distinguishing the question of social order from that of a just social order. In a way, they accuse idealists of assuming an ideal world as a model for the actual one, despite the fact that the actual world continually takes care to demonstrate that it does not resemble the ideal. I do not understand exactly what distinguishes the problem of order from the problem of just order. To say that the question of attaining political order is an important one is to say that we attribute to it some value, some special importance. But if social order is a value on which we can agree, despite our differences, what makes us confident that other values cannot be shared in the same way?

<sup>6</sup> S. Hampshire, *Justice is conflict*, Princeton University Press, 2001; J. Waldron, *Law and disagreement*, Oxford University Press, 1999.

I suspect that what really supports the realists' intuition is the old anti-foundationalist critique, according to which an idealist is somebody looking for something that cannot be found: a self-evident solution immediately approved by all as soon as it is presented to their reason.<sup>7</sup>

Wenar's book is a step in the opposite direction, suggesting a 'realist' approach to applying our ideals<sup>8</sup>. This is not because, as my students believe, morality demands high standards, but, well, you know, we are only poor human beings. It is because the things to which we attribute importance are many and of many different kinds. The problem is not distinguishing order from just order, but finding an appropriate way to structure those different values in a system: more a matter of reflective equilibrium than of foundation. In designing our just, global world we must be careful to evaluate the consequences of what we do, taking multiple considerations into account and where 'no single principle can be pressed too hard' (p. 276).

In its 'realist' defence of an ideal perspective, *Blood Oil* offers the instruments we need for creating a just, global world, giving politics its own role in reducing uncertainty, reciprocal mistrust and injustice (p. 276).

Now, I turn to my more critical comments.

<sup>7</sup> S. Hampshire, *op. cit.*

<sup>8</sup> See L. Valentini, "Ideal vs. Non-ideal Theory: A Conceptual Map", *Philosophy Compass*, 7, 2012, pp. 654–664.

### III

#### We, the People

One prominent aspect of *Blood Oil*, that we have seen above, is that it is addressed more to *us* (western countries) than to *them* (non-western ones). We are warned to open our eyes to the fact that it is something that *we* do that makes it possible for us to legally own much of what contributes to an enjoyable life.

*Per se*, it is not legal, for there is vice in the first step of the long chain through which we are connected to the raw materials. They are stolen from the people by the elites in power, and we recognise them as being stolen in the treaties we have signed.

By buying either the products or the raw material they are made of, we act as though the elite in power—no matter how they obtained that power, whether the population has any control over what they do with the products/materials or how they spend the money they gain—was entitled to *appropriate* them. But a government can *legitimately* appropriate nothing of a country, given that the only owner of a given territory (and therefore its substrates) that our treaties recognise is the people (p. 191). A government can be *authorised* by its people to act in such and such way. But in the absence of anything that counts as authorisation (p. 225), selling raw materials is selling stolen goods.

What the people's authorisation implies is a question in itself that Wenar discusses at length. I will say something on this in the next section. What I want to focus on first is the idea of the people as owners of the territories they occupy.

That 'of the people' is not an uncontroversial notion, as Wenar is quite aware (p. 214). For my part, I must confess that I am not happy at all to sit on the side of the old colonialists, greeting with scepticism the idea that the people must decide on

their own destiny (p. 197), or the side of the elites speaking ‘in the Weberian language of power’ (p. 211). Still, this is where I am. Who is the people is my problem.

At first sight, it can appear that a people, for Wenar, is what is constituted when a group of individuals creates an independent state, enjoying self-government (p. 198). In the beautiful passage dedicated to *America’s Declaration of Independence* (1775)—‘the shot heard “round the world”’ (p. 174)—Wenar clearly signals the relevance of independence for the constitution of a people, suggesting how, with that shot, America started ‘the biggest political transition in the twentieth century’; a transition that was ‘not only political but also conceptual and identity-altering’ (p. 180).

And he adds: ‘the question of “who is the people” was harder before the independence of the colonies’ (p. 198), but is easily solved after that. ‘People’ is anything but ‘the people of an independent country’, which, in turn, is anything but ‘all of its citizens’ (p. 198).

I am not sure how to interpret the connection between independence and the constitution of a people. It sounds strange to say that Egyptians did not exist before they became independent or that the Kurds are not a people (what they claim to be) because they do not have an independent state. I am sure that Wenar would deny both statements, but I do not see exactly how.

My guess is that Wenar is following two different approaches here. On one side, to see the creation of a state as being that which constitutes a people can count on a very strong tradition of political philosophy. The entire contractualist tradition, in fact, conceives of a people as the union of a group of individuals in a state.

What characterises contractualism, however, is the fact that before a state gets formed we live in a state of nature. This can be inhabited by individuals (Hobbes), or by little 'natural' groups (Rousseau); either way, never by one people. It can only be constituted by covenant. Nor is it by chance. Whether for different reasons (Hobbes differs from Kant, Locke and Rousseau), the contractualist theorists *dissolve* the very idea of a people as a previously given entity, in order to remove legitimacy from any antecedent source of authority based on tradition.

Can independence be a substitute for the state of nature?

Let us consider who the individuals and groups were who declared themselves the people of the United States. As is well known, they were English, French, Dutch and Spanish, who moved to the US to colonise that immense territory, conducting a devastating war against a previously existing society (viz. a previously existing people), until that society was almost destroyed. It was when they started their fight for independence that they declared themselves the people of the United States.

What I am trying to suggest with this example, is that once we put aside the abstract idea of the state of nature and look at peoples under an empirical light, what we find are never individuals giving rise to society out of nowhere. They have always been there. And if this is true, conquerors of a territory are nothing but invaders.

Wenar, on the other side, seems to be fully aware of this. Once they gain their independence, Wenar says, 'citizens become united into a single actor with its own unique biography—the wars and the dark times, the great reforms and the mistake—and so achieve an active mutual identity' (p. 185).

But I am not sure how we should take such an argument. If it is just an idealisation, then we can only attribute sense to it by

randomly picking a moment in the history of a territory and declaring it as *the* moment in which a people came into existence. A fiction, nonetheless.

If it is not an idealisation but instead aspires to be an empirical thesis, then more has to be said on the matter. To put it in a very undramatic way, many people in southern Italy still believe that the so-called ‘Italian Unification’ (1861!) was nothing but a war of conquest and that the north currently oppresses the south.

At the risk of appearing like an out-of-date nostalgic for the seventies, it seems to me that according to Wenar’s logic, the only owners of the entire territory of the United States are the Native Americans.

But actually, this is not a real answer either.

For if we start to look for a more substantive criterion, we would never find the real owner of a country. Any population currently occupying a territory has probably been an occupier before, subjugating or destroying some antecedent population who was quite possibly an occupier in turn. After all, the Cro-Magnon destroyed the Neanderthal to occupy their environment.

So, even if we did eventually succeed in establishing a criterion for identifying peoples, a further problem arises with their property rights.

True, as Wenar tells us, these are stated in many national constitutions and laws (pp. 194-195). In this sense they are legal rights, enjoying the same status (whatever that is) as my right not to be killed crossing the road. This, however, does not solve all the problems.

In considering a possible conflict between popular resource sovereignty and environmental questions, Wenar clarifies that ‘to



affirm popular resource sovereignty is not to affirm absolute sovereign rights’ (p. 206).

As popular sovereignty finds a limit in human rights, popular resource sovereignty finds a limit in preserving the environment. But limiting rights is not to say that there are no rights (p. 207).

This is correct. But it also offers the possibility of seeing things in a different light. We could say, for instance, that it is not for a people to own pieces of the earth but for humanity to possess it as whole. I am not claiming that this is true. I just do not see why a humanity right should not be as reasonable as a peoples’ right.

For all its vagueness, I prefer humanity over peoples, which takes me to my last point on peoples.

One of the problems Wenar deals with in defending popular sovereignty, is the ontological one. Peoples are groups, of course. But what exactly are groups?

In a sense, birds are a group. They are all the things that fall under the concept of bird, as it is defined by zoology. We can say that they are a natural kind, if we want.

Peoples are hardly a natural kind. There is no genetic difference between the French and New Zealanders, Congolese and Eskimos. Not being a natural kind, peoples are then a political or juridical kind, identified not by natural sciences but by social ones.

But this is not easy.

When peoples come into being, the question that arises is not how can *we* (the social scientist) classify *them*, but how would *they* classify *themselves*. It is a question of identity. Any formal, external,

criterion for classifying them would not suffice. It would not say what it is *for them* to be that people<sup>9</sup>.

This is the cause of the endless we/they debates we are facing all over the world. *They* have to respect *our* laws, not because the laws are *possibly* just, but because they are *ours*. They are part of our culture and identity and *they* threaten them.

In a sense, humanity too is a group. And I cannot claim that it is such a clear concept either. There has been endless debate on whether a foetus should be considered a human being or not. Bioethics never ceases to throw up new and challenging cases. But putting aside these important, yet here peripheral, cases, we can classify human beings independently of identity questions. This is why I prefer humanity rather than peoples.

#### IV

### **Authorising: Consent and Brainwashing. What makes the distinction?**

My final section is devoted to questions of authorisation (p. 222ff.). Here my aim is not to criticise Wenar, but to push him into saying something more on the question.

As owners of their country's resources, people do not need to administer them directly and, usually, they do not. They authorise somebody else to do it by establishing a relation with representatives of their interests (p. 215).

<sup>9</sup> Ch. Taylor, "Interpretation and the Sciences of Man", in *Philosophy and the Human Sciences*, Philosophical Papers 2, Cambridge University Press, 1985, pp. 15–57. Taylor's position seems to be particularly congenial to Wenar, given his idea of people as a single actor, with its unique biography, achieving mutual identity, op cit., p. 185.

The question of authorisation is a very important one for politics and political philosophy, beyond the management of a country's resources. While challenged by both philosophical schools and political movements asking for direct democracy (the Italian Five Stars Movement, to give an example), I agree with Wenar in considering it especially relevant, and not only on the matter of resources<sup>10</sup>.

One salient aspect of authorisation, however, is that once it takes place citizens need not be continuously involved in state administration. On the matter of resources, this means that citizens 'need not to be involved in, or even aware of, the management' of the resources they own (p. 223).

As a consequence, the people only implicitly authorise many of a government's acts. Governments do not consult them on each of their decisions. This is fine, according to Wenar.

Implicit consent can be consent, of course, but only after the precise conditions under which implicit consent counts as consent have been established (p. 227). The necessity of being particularly careful with this is obvious. Once implicit consent is recognised, we must expect governments of any kind to claim that their deeds and decisions have the implicit assent of the people: people could protest, after all, but they didn't (p. 227).

But as Wenar clarifies, by not protesting people are not tacitly assenting, unless they enjoy 'bare-bones civil liberties and basic political rights' (p. 228).

The oppressed people of Equatorial Guinea, for example, could not possibly have been authorizing Obiang to sell off their oil. The citizens

<sup>10</sup> J. S. Fishkin, *When the People Speak. Deliberative Democracy and Public Consultation*, Oxford University Press, 2009.

could not find out what sales Obiang was doing or where the money was going, and they've been either unable to protest his sales or too fearful to try (p. 229).

For people's silence to count as consent, Wenar states: 1) there must be some system in place that will reliably alert citizens [...] of mismanagement of their resources; 2) consent has not to be extorted, either by force or by "brain-washing"; 3) discussion has to be possible among citizens on the government's decisions; 4) expression of dissent has to be possible "without risking severe costs" (p. 228).

I have nothing to say on Wenar's criteria for what qualifies as tacit consent. They seem to me perfectly right and intuitive. What I am interested in, rather, is how we should take them. To clarify what I have in mind, I turn to the difficult case of Saudi Arabia, which Wenar addresses (p. 232).

Saudi Arabia is a difficult case because, as we learn from Wenar, although in certain respects it 'certainly does not seem to meet minimal conditions for popular resources sovereignty' (p. 232), other aspects could make you wonder whether the Saudis just 'like things, more or less, as they are' (p. 233).

Saudi Arabia is 'quite explicitly' an absolute monarchy (p. 233). It is among the few countries that 'has never signed the treaties that would commit it to popular sovereignty' (p. 233). The country could be characterised in terms of 'the apparent devotion of the majority of Saudis to a very conservative interpretation of Islam, the segregation and inequality of sexes, and the radiation of public authority into areas of lives that in the West would be protected as private' (p. 233).

While the Saudis have created a secret police and informant network 'that the East German *Stasi* would have admired', they have waived 'taxes', subsidised 'food and housing', provided 'free

education and health care’ and created ‘many pointless government jobs for Saudis who would otherwise be unemployed’ (p. 234).

The reason why I am interested in Saudi Arabia does not relate to our being unable to say anything about the Saudi Arabians because we do not know or understand enough of their political situation<sup>11</sup>. On this, I certainly agree with Wenar: ‘Saudi Arabia is not Mars’ (p. 232). Rather, it has to do with the very idea of consent (and the correlated ideas of freedom and oppression).

In contrast with the residents of Guinea, Saudi Arabians are not ‘too fearful’ to protest. They do not suffer physically. They are not poor. Nor do they seem to feel any special anxiety for their freedom. In addition, ‘many Saudis, especially in relatively progressive urban centres like Jeddah, would scoff at the idea that they had been brain-washed by the state’ (p. 235).

Yet, according to Wenar, despite appearances to the contrary, ‘Saudis citizens do not signal [with their silence] valid tacit approval of the regime’s management of the country’s resources’ (p. 235).

How should we take such a statement?

Let me start by observing that while Wenar is trying to clarify the notion of implicit consent, it is actually the notion of consent itself that is at stake. We take consent, and not only implicit consent, as a qualified notion.

<sup>11</sup> Wenar is here referring to M. Walzer, “The Moral Standing of States: A Response to Four Critics”, *Philosophy & Public Affairs*, 3, 1980, pp. 209–29. See also, M. Walzer, *Thick and Thin, Moral Argument at Home and Abroad*, University of Notre Dame Press, 1996.

The reason why we do not ask the consent of young people for their education is because we think they are not in a position to be able to evaluate what is the best for them. Wenar appropriation of the medical definition of consent for shaping his own criteria just reinforces this impression (p. 226). Whether this also causes endless problems in bioethics and elsewhere, for anything to count as consent people must be able to understand what they are consenting to, have sufficient information, be able to understand the consequence of their choices and have not been forced or manipulated: essentially, the four criteria Wenar gives for implicit consent. In the absence of these conditions, it is not just implicit consent but all consent that collapses. People saying nothing or people saying ‘I consent’ changes nothing.

The problem with taking consent as a qualified notion, however, is that it sounds as though whereas affirming your consent is the most important thing, it is me who establishes when you are consenting and when not. This is the source of many accusations directed at a consensualist model.

According to critics, what happens is that when we are displaced by values or institutional arrangements of societies that are different from our own, we do not understand; and instead of taking the difference seriously, we assume that their people cannot possibly accept them, constructing conditions for consent that, coincidentally, lead exactly to the outcome we feel more comfortable with.

To avoid such a trap, consensualists can easily be tempted to proceed in the following way. By assuming freedom as a property of human beings, a (transcendental) product of their reason, they see freedom as something individuals want and that social institutions can respect or violate. Once the yearning for freedom has been stated, societies that do not conform to it cannot possibly have consent. But this is not a very promising way to

resist the objection. It can make sense when people suffer under inhumane regimes, but it becomes more difficult in different circumstances. This is what makes Saudi Arabia a difficult case.

My suggestion is that we should do the opposite, endorsing the accusation of our critics. Contrary to what critics maintain is the problem with consent, it is not that we are struck by or do not understand how institutions and regimes different from our own can obtain consent. On the contrary, it is that we understand perfectly the why and the how of their consent.

People can consent for a huge number of reasons. There is nothing mysterious in this.

There are perfectly clear explanations for people genuinely consenting to a dictator: lack of an alternative being a quite appropriate one. There is nothing mysterious in people consenting to work for two dollars per hour, producing trousers that command big money in the marketplace.

As Wenar suggests, we do not just know that there is widespread hatred for Western people in non-Western countries (p 270); we know *why*. We know the causes that produced it, the mistakes we made and the manipulations by the other side.

We do not need to deny that there is anything real in many Middle Eastern young people consenting to the various mullahs pushing them into terrorism. There is, and we know (or can come to know) why.

What if this is the case?

Luckily for me, I have almost run out of space, so I can only outline what I have in mind. I think that what is essential about a theory of justice (be it national or global) is that it is the very way in which our preferences and beliefs come to be formed in our social systems that must be the object of our judgment.

Institutions shape our life so deeply and from the very beginning, that starting from who we are now is not enough.

This certainly forces us toward more substantive theories of good, but this seems to me the only way.

*University of Salerno*