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Stephen Wertheim. "The League that Wasn't: American Designs for a Legalist-Sanctionist League of Nations and the Intellectual Origins of International Organization, 1914-1920."

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Review by **Lloyd E. Ambrosius**, University of Nebraska-Lincoln

This excellent article analyzes the legalist approach to international relations that prominent Republicans advocated during and after World War I. It focuses on their alternatives to President Woodrow Wilson's League of Nations. Instead of Wilson's moralist approach, Stephen Wertheim argues, Republican statesmen, such as former presidents Theodore Roosevelt and William H. Taft, and former New York senator Elihu Root, preferred a "legalist-sanctionist league" as a better way to preserve world peace. As the core contribution to existing historical scholarship, Wertheim states, "This article traces the intellectual development and political reception of what it terms the 'legalist-sanctionist league,' whose essential components were law and enforcement" (799).

Going beyond previous scholarship, Wertheim's article delineates the legalist proposals for an international organization, based on law and enforced by sanctions, that several leading Republicans offered as an alternative to traditional international relations and to Wilson's vision of an international community. They stressed the importance of international law as the key to reforming the world. Unlike them, Wilson called for a new morality, while downplaying both international law and enforcement.

Wertheim draws a sharp distinction between the legalist and moralist approaches to international relations. He observes, "To Wilson, legalism and sanctionism had it backward. The formal social contract was a dangerous fiction. Instead, politics emerged and evolved organically. They developed through gradual adaptations to historical circumstances, not through clever arrangements of constitutional commitments" (801). On this point, Wertheim offers a substantial corrective to Francis Anthony Boyle's *Foundations of World Order: The Legalist Approach to International Relations, 1898-1922*

(Durham, NC: Duke University Press, 1999). Boyle claimed that Wilson successfully combined the legalist and moralist approaches in the League of Nations Covenant. In contrast, Wertheim shows that Wilson rejected the legalist approach in drafting the Covenant and that he succeeded in preventing the Republicans from offering their alternative vision in the form of either amendments or reservations during the treaty fight in 1919-1920. This clarification is an important feature of the article's originality.

Wertheim is not the first scholar to recognize the differences between Republican legalist and Wilson's moralist approaches to international relations. On this point, he credits Jonathan Zasloff's excellent article, "Law and the Shaping of American Foreign Policy: From the Gilded Age to the New Era," *New York University Law Review* 78 (April 2003): 239-373. In slight disagreement with Zasloff, as he notes, Wertheim places greater emphasis on sanctions in Root's thinking during World War I. He also credits my scholarship on Wilson for noting the differences between moralist and legalist approaches to international relations. I made this distinction in *Woodrow Wilson and the American Diplomatic Tradition: The Treaty Fight in Perspective* (Cambridge, UK: Cambridge University Press, 1987) and *Wilsonianism: Woodrow Wilson and His Legacy in American Foreign Relations* (New York: Palgrave Macmillan, 2002).

Although I mostly affirm Wertheim's interpretation, and especially applaud his careful account of the nuances of disagreement among Republicans, I will quibble with some of his interpretation. He criticizes Roosevelt's allegedly contradictory views on the role of morality in international politics. "In truth," Wertheim writes, "Roosevelt harbored contradictory attitudes toward the moral standards of international behavior while law remained unenforced." He asserts that TR appealed in 1915 to the "Victorian code of honor" in criticizing Wilson for not condemning Imperial Germany's invasion of Belgium in 1914, but that TR contradicted himself when he asserted "Hobbesian morality" in his observation that a right without a remedy in international relations was no right at all. Wertheim claims that TR's logic equated to "might-makes-right morality" (806-7). However, that was not the logic of Roosevelt's argument. When TR condemned Germany for its might-makes-right morality, he was not thereby endorsing this standard. It was not contradictory for him to observe Germany's failure to honor its treaty commitment to respect Belgium's neutrality in 1914, while he still wanted the United States to be cautious about making universal commitments to use sanctions to guarantee the neutrality of all nations. Roosevelt's criticism of Germany's might-makes-right behavior did not mean that he affirmed Hobbesian morality.

Within this article's framework, which stresses the Republican vision of a "legalist-sanctionist league" as the foremost alternative to Wilson's League, Wertheim does not fully acknowledge the consistency in Roosevelt's, Root's, and Massachusetts senator Henry Cabot Lodge's defense of American sovereignty. Taft was more willing to sacrifice some national sovereignty. During World War I, TR wanted to ensure that Germany did not defeat Great Britain, and thereby destroy the European balance of power and pose an eventual threat to America's security in the Western Hemisphere. His condemnation of

Germany's invasion of neutral Belgium and his concern for halting the German advance on the western front in France expressed TR's assessment of international politics, not abstract morality about upholding treaty obligations. His criticism of Wilson for ignoring Germany's violation of international law by invading Belgium came from this assessment. At the same time, Roosevelt insisted throughout the war, as he did before it, that the United States should uphold its sovereignty in conducting international relations. Root shared this concern, as Wertheim shows in his analysis of the Republican elder statesman's suggestions in 1919 for amendments and reservations to the Covenant. Lodge also shared this perspective on American sovereignty and power politics, warning that the United States should never make a commitment that it was not prepared to enforce. The firm commitment of these three Republicans to national sovereignty limited their willingness to approve legal obligations with requirements for enforcement by sanctions.

Wertheim views the Republican vision for a "legalist-sanctionist league" as a positive alternative to Wilson's League; they offered "constructive criticism" (817-27). He observes that Roosevelt and Lodge did not share Taft's and Root's enthusiasm for international law, and its enforcement with sanctions, as a viable reform to replace or at least mitigate power politics. His favorable attitude toward this reform probably explains Wertheim's criticism of "Roosevelt's private strategy of speaking from both sides of his mouth" (820). I see more consistency and less duplicity in TR's wartime critique of Wilson. For my interpretation, see my chapter, "The Great War, Americanism Revisited, and the Anti-Wilson Crusade," in *A Companion to Theodore Roosevelt*, edited by Serge Ricard (Malden, MA: Wiley-Blackwell, 2011), 468-84.

If Charles Evans Hughes, the former Supreme Court justice who resigned to accept the Republican nomination, had been elected in 1916 instead of Wilson, Wertheim suggests that the peacemaking after World War I might have been quite different. The Republican alternative of a "legalist-sanctionist league" might have emerged instead of Wilson's League. He sees this outcome as a lost opportunity. What Wertheim overlooks is that the Republican presidents after World War I, Warren G. Harding, Calvin Coolidge, and Herbert Hoover, and their secretaries of state from 1921 to 1933, Hughes, Frank L. Kellogg, and Henry Stimson, did place greater faith in and reliance on international law than Wilson had done during his wartime presidency. Yet the outcome of their conduct of U.S. foreign relations was no better. Jonathan Zasloff, in another major article, "Law and the Shaping of American Foreign Policy: The Twenty Years' Crisis," *Southern California Law Review* 77 (2004): 583-682, revealed the failure of international law to deal with postwar problems of European international relations in the absence of political will or commitment. By framing the choice as he did during World War I, Wilson foreclosed the Republicans' alternative of a "legalist-sanctionist league" but not their overall legalist approach as much as Wertheim suggests. Yet their focus on international law after World War I did not succeed in taming power politics, thus leaving hard choices about America's role in world affairs for future leaders. The postwar Republican legalist approach did not, of course, require the United States to use sanctions. It fell short of the "legalist-sanctionist league" that appeared as an alternative during the war. But, given the

consistent opposition of Roosevelt, Root, and Lodge to any sacrifice of American sovereignty in a league, it was never very likely that the Senate would have approved such an alternative even if Hughes had won in 1916.

Looking back after World War II on the failure American diplomacy in the first half of the twentieth century, diplomat-historian George F. Kennan criticized both Republican and Democratic statesmen for their legalist and moralist approaches. His realism recognized the unavoidable dimensions of power in international politics and suggested that neither Wilsonian moralist nor Republican legalist idealism provided a sound basis for U.S. foreign policy. As Wertheim correctly observes, there were alternatives to Wilson's League. The Republican vision of a "legalist-sanctionist league" was one, but not the only alternative after World War I. As Kennan and other realists suggested a generation later, there were even more perspectives on and approaches to America's global role. Wertheim contributes to the scholarly debate about these alternatives with his emphasis on international law and particularly on a "legalist-sanctionist league." This article will stimulate the ongoing debate.

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