

Chapter 35

Global Social Justice: Whose Justice, Whose Responsibility?

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Abstract The article explains the essential features of a theory of global justice that combines justice for individuals with justice for political communities. It holds that arguing within the justificatory framework of cosmopolitanism is compatible with a conditional justification of states that are basically just. The justification rests on an argument I will name ‘the moral path dependency argument’. The article follows its normative consequences into the fields of a justly ordered community of legitimate states and of cosmopolitan principles of distributive justice. Thus, it reconciles the latter with claims to political autonomy of particular communities and with the fact of reasonable disagreement between them.

35.1 The Problem

Today we are convinced that every human being has an equal moral standing: my fundamental interests deserve exactly the same consideration as the fundamental interests of anybody else. Nevertheless, some people are among the lucky few, living in well-ordered societies and enjoying a comparatively high level of welfare. On the other hand, one fifth of the global population, that is, 1.2 billion people, have less than 1 Dollar per day at their disposal. They are living below the international poverty line, as determined by the World Bank. Three of the most distressing consequences are: more than 820 million people lack adequate nutrition; more than 850 million adults are illiterate; and about 30,000 young children are dying every day from easily preventable causes such as diarrhea or measles, and, not to mention, AIDS.

Even more characteristic of our present situation than the existence of absolute poverty is the extent of global inequality. Less than 15% of the world’s population

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divides among itself almost 80% of the global wealth. Only 1.25% remains for the poorest 46% of the world's population. The income gap between the fifth of the world's population living in the richest countries and the fifth living in the poorest is continually increasing: in 1997, the ration was 74 to 1, up from 60 to 1 in 1990 and 30 to 1 in 1960. One last figure comparison: the assets of the three richest *individuals* exceed the combined Gross National Product of all the least developed countries with populations of about 600 million people. So, is there a problem with global social justice?

One common answer is: of course, there is a problem, but the domestic states are primarily responsible for its continuation. Bad government, consisting and resulting in corruption, repression, illiteracy of women, and even civil wars and total state failure, is the main cause for these endemic evils. Some critics of the given capitalist world-system respond that such an explanation is at best one-sided. They direct our attention to external factors, such as the long shadows of the colonial past and the ongoing exploitation or "unequal exchange" between the centres and the peripheries. Implicit in these responses, however, is the following concession: there would be no problem with global injustice if none of these attributions of causality were sound. This weakens the status of the critique, making it rest on disputable, and indeed partly dubious, empirical claims.

One of the poorest countries in the world today is Ethiopia, which had not been a colony during the imperialist period of the nineteenth and early twentieth century. Today, Ethiopia is of very little interest for multinational companies searching for exploitable resources and working forces. Economically, like most of the countries in the southern parts of Africa, Ethiopia is not suffering from unequal exchange but from the absence of exchange at all. It is not so much exploited as it is marginalized, as are almost all of the least developed countries.

There is a problem as well with the common critique in terms of normative theory. The critique insists mainly on corrective justice (the colonial past) and/or on justice in exchange (exploitation). It overlooks the primacy of distributive justice. Injustices in this last respect are logically independent of, and normatively prior to, injustices in the first and the second respect. This gives way to a more direct, and more comprehensive, critique of poverty and inequalities in the present world system.

35.2 Distributive Justice and Moral Individualism

To give just a brief sketch of an argument from distributive justice: it rests on a universalistic, egalitarian, and individualistic conception of impartial justification. The conception holds that every individual human being is entitled to equal respect and concern. No one deserves less simply in virtue of her belonging to this or that social category. All individual members of the moral community must count as ends in themselves. Consequently, the moral validity of rules is founded on the free and informed consent of every single member of the moral community as a

community of equals. This does not necessarily mean that every single good or bad has to be distributed equally. But it has to be distributed in accordance with the equal moral worth of all the persons affected.

An unequal distribution is just if and only if it can be impartially justified. If there is no such justification of unequal distribution, an egalitarian solution follows by default. The burden of proof weighs on the defenders of an unequal distribution of morally relevant goods and bads. A prominent and, as far as I can see, basically sound principle of distributive justice gives room for inequalities as long as they are the results of free decisions and actions and not the outcome of circumstances beyond the control of the person. This principle is sensitive to personal responsibility. At the same time, it demands redistribution if this is required to equalize the standing of persons with respect to what would otherwise be brute bad luck.

Now, obviously, for most of the children born in Ethiopia, it is brute bad luck not to be born in a part of the Western world instead. Long before the child can even begin to take responsibility for decisions and actions, many parameters of her life are fixed, and mostly to her disadvantage, in absolute as well as in comparative terms. She faces a high risk of dying young, of remaining illiterate, and, especially, as a female Ethiopian, of becoming the victim of sexual violence and genital mutilation. What is more, the existence of state barriers makes it highly unlikely that she will ever reach one of the wealthier, and less repressive, states in the world, since no such state accepts refugees simply because they are fleeing an initial situation of inequality and poverty or even sexual repression.

The state system, with its barriers, stands between the child and an access to advantages she might otherwise have. So, these advantages turn out to be undeserved privileges defended by armed guards. The child faces all these disadvantages without having made any avoidable mistake. They are part of an overall situation that we could, in principle, modify through political action so that the disadvantage would not occur. What impartial justification, no less binding for our Ethiopian child than for an average child born in Switzerland, can there be for the existence of such a state system?

That there can be no such justification is the obvious answer. It is obvious, one might add, because my arguing up to this point has been totally individualistic. It has taken the existence of the state system into account, but only insofar as it stands in the way of a more equal distribution. It has not given this system any moral weight of its own.

This is no accident: a universalistic, egalitarian, and individualistic conception of morality narrows the scope of possible defences of the state system from the beginning. With respect to *normative individualism*, we cannot take the existence of collective entities for granted. Some of them might be justifiable in the name of individuals, as being in their enlightened self-interest and/or as providing a framework of their identity-formation. Nevertheless, we have to insist, empirically as well as normatively, on the irreducibility of the individuals. Whatever an individual might owe to the state of his birth, the state has no right to neglect the separateness of the individual whose identity it might have helped to shape.

With respect to *universalism*, a moral justification requires the inclusion of all persons affected, irrespective of their different communal belongings. The drawing and defending of boundaries in the limited space of the Earth affects mankind as a whole. Finally, with respect to *egalitarianism*, our duties to justify moral claims cannot be placed on concentric circles. Each person affected must be able to accept the justifying reasons as an equal. The difference between citizens and strangers is not relevant on this elementary level of justification. It is not the beginning of an impartial reasoning among equals. It might be, at best, its outcome.

Consequently, if there is a right to show some degree of partiality towards our fellow countrymen, this must satisfy a “second-order-impartiality.” The “right to justification” does not stop at the borders of nation states. They cannot even mediate this right from the very beginning. In addition, because they take part in structuring the unequal distribution of goods and bads in the present world system, the burden of proof weighs on their defenders. Is there a way to bear this burden although the existence of the state system as such stands in tension with the principle that holds brute bad luck to be morally arbitrary?

35.3 Four Arguments in Defence of the State System

Let’s have a short look at four possible defences of the present state system. A first defence is very simple, call it the realist’s reaction: if normative theorizing will not become quixotic, it has to take the existence of the state system as a starting point. States are given and global justice can only be realized relative to their existence. The thought experiment of an original position in which only individuals and no states would have to argue about how to build a just world system would be completely off the subject. Now, normatively unsatisfactory as this answer is, it also presents a distorted picture of reality. In the present world system, the principle of state sovereignty has come under pressure in many respects.

In public international law, there is a tendency—however weak—to recognize the individual as a subject of rights alongside the nation state. Many want an improved United Nations to gain more powers to act. The shape of the given state system is the subject of ongoing negotiations and struggles. Political entities beyond and above the nation state, like the European Union, are obtaining more and more formal and informal competences. Global organizations like the WTO, the IMF, and the World Bank are *de facto* performing global governance in very sensitive domains of policy formation. Of course, all of this is not even the beginning of a disappearance of the entire state system. However, it indicates that the distribution of political competences is itself a function of political and, therefore, also of normatively motivated struggle. It cannot serve as its uncontroversial starting point, as our realist suggests.

A second attempt to defend the state system is based on an analogy with families. We are disposed to favour those with whom we feel more intimately connected. This is part of our common human nature. Our fellow countrymen are like extended kin to us. Therefore, we are more motivated to share our possessions with them than

we are with regard to total strangers. Now again, there is some realism in this argument. Still, the analogy with families is, nevertheless, a rather weak one. Compared to kinship, nation-states are highly abstract communities, stabilized mainly by means of symbolic politics and originally, very often, by means of brute force. Even in the most successful and stable nation states, like France, nation-wide feelings of solidarity are more a result than a prerequisite of nation-building processes. Again, the nation-state cannot serve as an uncontroversial starting-point of impartial moral arguing. Our common human nature does not support such a supposition.

A third defence of the present state system rests on the benefits of a moral division of labour. It is more efficient to distribute competences among particular unities than to concentrate them at only one point in social space. Nation states are more comprehensible than a worldwide state would be; the abuse of power is easier to identify and to correct if necessary, etc. Unfortunately, the argument is not specific enough. It does not distinguish the given system from any functional equivalent. Furthermore, it is highly implausible to assume that in an "original position" the parties would have chosen only the state system as it now exists. Why should it be most efficient to construe states as large as China, Russia, the United States, or India on the one hand, and small ones like Luxemburg or Liechtenstein on the other hand? Why should it be most efficient to place some states at the upper reaches and others at the lower reaches of big rivers, some at the sea and still others in the midst of a desert? For reasons of efficiency only, the present state system is clearly an imperfect solution, calling for a radical redrawing of territorial as well as functional boundaries.

The first three defences of the present state system, taken one by one and even in combination, are failures. However, maybe a fourth defence can do a better job. I will call it "the argument from moral path dependency." The argument goes as follows. We should start with the concession that the shape of the existing state system is morally arbitrary. It is the outcome of forced marriages, post-feudal warfare, colonial drawing of boundaries, and so on. Nevertheless, some of the existing states have emerged into institutionally thick and effective promoters of basic principles of justice. Their institutional and procedural designs have incorporated universally valid moral claims.

First of all, they give room for some government of the people and by the people: they empower citizens to ensure the responsiveness of representatives by means of public pressure, institutional checks and balances, and the voting rights. What is more, the institutions of basically just states are in part responses to specific challenges and experiences. These challenges and experiences have influenced the local interpretations of, for example, the idea of human rights. They have connected them with the histories of particular communities. Consequently, free and equal citizens can identify with their political community in the light of moral insights and learning processes, seeing its potential flourishing as their common project.

Destroying those entities would mean to blot out local examples of what social justice might look like. However, justice needs examples, for its basic principles are much too abstract to be realized in a "pure" form, untouched by any particularities. In the real world, a regime of justice always bears the signs of its historic origins.

Inevitably, this leads to some pluralism within the realm of justice, even on the basis of shared principles like equal respect, protection of human rights, or equality of opportunity. Within this realm, there is room for what John Rawls has called “reasonable disagreement”: rational and reasonable persons, each having a sound idea about social justice, might nevertheless promote incompatible views of what social justice might mean in this or that respect. As their views are partly shaped by their different national belongings, we have reason to apply the principle of tolerance to the fact of state pluralism. As such, this is what “moral path-dependency” means: a fact, morally neutral or even dubious per se, gains some moral worth thereafter. It does so as a hard-won frame for morally pleasant processes such as the institutionalization of human rights.

To be sure, this result is sound only insofar as states can be seen as institutionalized examples of universally valid principles. These principles take individuals and only individuals as the ultimate units of moral concern. So, the justification of the existence of states is strictly conditional: it rests on normative individualism all the way down. It does not presuppose any normative collectivism. States are never ends in themselves, only individuals are. Nonetheless, individuals might have good reasons to identify with their states and to reveal a political sense of belonging.

Therefore, the argument from moral path-dependency can serve as an indirect justification of the existence of basically just states. Though, not every state has a sufficiently just basic structure. All too many states are dictatorships, systematically violating human rights and exploiting their people. Even with respect to some of those states, however, many people have sentiments of belonging, shame and pride, and special responsibility. Alongside the states with basically just internal structures there exist basically unjust states whose mere existence is widely accepted and even appreciated among their subjects. Those states turn out to be effective not in realizing basic principles of justice but in forming and shaping a political identity.

For this reason, the argument for moral path dependency might also give some support for the mere existence of basically unjust states, given that most of their subjects nevertheless affirm this existence. Still, there are also political entities that lack nearly every support of the vast majority of their members. Millions of people are suffering from purely repressive power structures not based on any internal consent, even with regard to their mere existence. Finally, there are a growing number of failed states, unable to meet the most elementary needs for physical security and the subsistence of their members. Some formal states merely serve as hollow bodies furrowed by crosscutting political loyalties, leading all too often into bloody conflicts with the so-called state power as the booty for the victorious group.

Purely repressive states and failed states cannot be justified, however indirect, in accordance with normative individualism. Consequently, those states, or ruins of statehood, have no authorization from political morality to mediate “their” individuals with regard to the global community. They lack all legitimacy. There is no moral reason to respect them as expressing the justified will of the individuals who are condemned to live within their borders. Living within those borders is nothing else than brute bad luck.

So, the result, with respect to the given state system as a whole, is largely negative. This system contains legitimate, as well as illegitimate members, although it rests on the normative fiction of all those members standing on an equal footing. In reality, of course, the state system is highly fragmented and stratified due to power relations. But *neither* the supposed equality *nor* the real inequality within the state system can be justified in accordance with universally valid principles. All that can be said is that many of the existing states are basically legitimate: some with respect to their mere existence and some also with respect to their internal structures.

Anyhow, because some states are basically legitimate, a *purely cosmopolitan* conception of global social justice would be inappropriate. A purely cosmopolitan conception would refuse to accept any claims of justice beyond the level of the individual members of the global moral community. It might allow for some moral division of labour for the sake of efficiency. However, it would give no room for justice between nation states as a genuine dimension of global social justice. We would thus have as a slogan: There can be no such thing as international justice, there can only be justice among individuals.

Following the argument from moral path-dependency, however, we should take international justice seriously as an integral part of global social justice. Yet, only as a part, for there's a true core in cosmopolitanism: the legitimacy even of the most legitimate states is conditionally based upon the valid claims of their individual members. Furthermore, these members are always more than members. They remain individuals with their own inalienable rights, including claims to distributive justice and freedom of movement.

This is *a fortiori* true with respect to those states that are unwilling or unable to fulfill their responsibility for the protection of their people, not to mention, social justice. They turn out to be illegitimate even on the most basic, let's say "Hobbesian," level of justification. They do not guarantee even the physical survival of their members to a minimally acceptable degree. The basic human rights of those people cannot become effectively protected as long as the global community accepts the sovereignty of "their" states as inviolable. Last but not least, there are the stateless and refugees: protecting their basic human rights requires a direct, unmediated, implementation of cosmopolitan principles within, as well as among, states. In the given state system, the stateless and refugees, fleeing absolute poverty and/or gross violations of human rights, turn out to be the worst-off. There is no particular state on whose protection and promotion of their fundamental interests they could count.

35.4 International and Cosmopolitan Social Justice

In the last part of my paper, I will give a brief sketch of how we could reconcile some of the tensions I have outlined so far. The tensions occur because we should see global social justice partly as justice among states and partly as cosmopolitan justice. So, maybe the most important result of my account is that global social justice is much more complicated than both advocates of pure cosmopolitanism and

advocates of pure international justice suggest. The two questions in my subtitle, “Whose justice? Whose responsibility?”, do not allow for one-dimensional answers.

The most obvious tension I have outlined so far is the following: On the one hand, normative individualism requires that valid principles of distributive justice apply to individuals. Taking the principle outlined in the beginning, this would require redistribution in order to exclude, or to compensate for, brute bad luck. Individuals are responsible for the success of their lives to the extent that it is the outcome of their decisions and actions but not of circumstances beyond their control. Being born in a specific country, with better or worse starting conditions, is beyond the control of the individual.

On the other hand, every global redistribution scheme should take the existence of a plurality of legitimate states into account. Accepting their sovereignty, however, implies accepting their primary responsibility with regard to their citizens. It would be wrong for global institutions to pass over this competence in order to realize equality of opportunity for all individuals in the world irrespective of their national belongings. Obviously, this would release governments from their responsibility for good governance: it might, at worst, provide them with perverse incentives not to take care of distributive justice among their citizens as best as they can. What is even more important, it would also mean to ignore the sovereignty of the people. Thus, it seems as if the principle of distributive justice commits us to a purely cosmopolitan conception of global social justice, whereas the principle of political autonomy commits us to a conception of pure international justice, that is, justice among states only. Or is there a third way available?

In the concluding remarks, I can only indicate how such a third way might look like. I am very unsure about this proposal, but, nevertheless, I see no better one yet. As it often is in philosophy, it might be helpful to begin with separating different levels, in our case, three different levels of moral urgency.

Obviously, what is most urgent is a guarantee of, at the very least, the most basic rights to survival, subsistence, and freedom from slavery and other familiar forms of primary discrimination. With regard to these rights, the principle of sovereignty cannot serve as a bulwark against external interference and, in the most extreme cases, even of impartially justified humanitarian interventions. Problematic as the use of military force always is, states are primarily responsible for the security and the survival of their people, and their unwillingness or failure to meet this responsibility deprives them of their legitimacy.

All the reasons that might nevertheless count in favour of the formal independence of purely repressive or failed states are reasons in the name of global peace and security. Of course, normative individualism requires seeking and securing peace as far as possible, for warfare is always a defeat of humanity. Yet, what is fundamentally wrong with warfare is also fundamentally wrong with gross violations of basic human rights within states or ruins of statehood. Therefore, on this first level of urgency, which also includes the demands of refugees fleeing absolute poverty and gross violations of human rights, there is a direct cosmopolitan responsibility, overriding the sovereignty of states in cases of conflict.

On a second level, we should place the valid claims of legitimate states. All basically just states are entitled to free and equal membership in a community of legitimate states. I want to highlight four aspects. First, free and equal membership requires mutual recognition of inviolability in the essential domains of sovereignty of the people. Without such a collective right to freedom from interference, the principle of political autonomy would turn out to be worthless. Second, free and equal membership is incompatible with formal or informal discrimination, for example, in international trade. Peoples should be free, without pressure, to make decisions following their own reasonable public conception of political morality. Third, free and equal membership has to include an equal right to participate in defining and establishing the global rules of conduct. Fourth, free and equal membership requires enjoying those effective freedoms and disposing over those resources that are necessary for collective self-determination in accordance with the fundamental principles of justice.

If a basically just state is far from effectively functioning as a free and equal member in the community of states, and through no fault of its own, it is entitled to international assistance. Most importantly, foreign aid is required with regard to public goods indispensable for a full realization of human rights. This is similar to the international duty to assistance justified by John Rawls in his *Law of Peoples*. Unfortunately, Rawls did not go substantially beyond this duty.

What about the basically unjust states whose mere existence is nevertheless widely accepted among their members? I think the best solution would be a *second-class membership* in the community of states. This lower status, of course, should be strictly conditional upon the maintenance of an internally unjust structure. Its concrete form should be made so as to increase the probability of overcoming the injustices while at the same time expressing respect for the commitment of the peoples to the existence of their states. Instead of going into detail here, which would hopelessly exceed my expertise as well as the remaining time, I just want to mention one further complicating aspect: in the real world, there are many peoples without a state, or at least a legitimate state, of their own. It would be unjust to leave them without any representation on this second level. As such, we should try to include stateless peoples into the international system, which, therefore, would have to be more than a system of legitimate *states*.

On a third level, we should place the claims for global distributive equality among individuals. This level, as well as the first one and in contrast to the second, is a domain of cosmopolitanism. Even within a system of legitimate states including stateless peoples, individuals would not automatically receive their fair share. It remains possible that, due to unequal starting conditions among the states and/or to better or worse performances of their governments, individuals have unequal access to advantages irrespective of their own ambitions. According to my principle of distributive justice, this is clearly unjust, on a global no less than on a national scale.

What is more, some individuals could live in accordance with their conceptions of the good life only in a state other than the state of their birth. They would suffer an unfair disadvantage as long as they were not entitled not only to emigration but also to immigration. Think of two persons who both love to lead a life with many

opportunities for free settlement but one is born in a country as small as Uruguay and the other in a country as large as the United States: what reason should the first person have to accept this initial distribution of persons among state territories instead of insisting on an equal right to life in the land where the second person lives from the beginning?

Of course, in our real world, nothing comes even close to what a worldwide equality of opportunity and an unrestricted right to immigration would require. Nevertheless, the difference between principles of justice and *Realpolitik* aside, we should keep in mind that both requirements would be restricted by the demands from the first and second levels. Securing basic rights for all comes first, while realizing free and equal membership in a community of legitimate states comes second. Individuals cannot be entitled to freedoms and services that would make it impossible to prevent people from starvation, to grant asylum, or to life in a well-ordered political society of one's own. At least this is a rule of priority that I assume to be plausible.

Another important point is that both requirements, equality of opportunity irrespective of nationality and freedom of movement, are not totally without precedents, even in the international system of our time. In some approximation, they are recognized within the European Union. More generally speaking, providing living conditions of roughly the same value for all and guaranteeing freedom of settlement are well-known features of all true *federations*. To the degree that a just world order would come close to a global federation, it would only be a matter of consistency to apply these two features to the world system as well. In this respect, Otfried Höffe's impressive conception of a federal world republic is not cosmopolitan enough. Neither a right to immigration nor a claim to global equality of opportunity is part of his vision, and without any convincing reasons beyond problems of feasibility that would concern most of his own conception as well.

But how could we even come close to global equality with regard to the individual's access to advantages without overriding the primary responsibility of national governments? Would this not mean that, in the end, contrary to what I have promised, pure cosmopolitanism trumps international justice? Not necessarily. For, we can imagine legitimate states to be the primary subjects of cosmopolitan distributive responsibilities.

Legitimate states are states that have incorporated universally valid principles in specific forms. Therefore, they are basically qualified to enforce the principle of global equality of opportunity among individuals as well. In doing so, they would function as *mediators* of cosmopolitan justice. This would leave it up to them, to a certain degree, to interpret and shape this rather abstract principle: "Providing living conditions of roughly the same value for all" is a general formula that calls for concretization no less than an abstract principle of human rights does.

Through mediating a distribution that ultimately applies to individuals, legitimate states would strengthen their legitimacy and, therefore, validate their claims for political autonomy in accordance with normative individualism. Only in regions where state authorities are incompetent or unwilling to perform their duties of justice, would it be necessary to by-pass the local political systems in order to give individuals their fair share.

Is there even a slight chance to gain support for the ideal of cosmopolitan justice? This is a question we have to ask ourselves as relatively rich citizens of relatively rich countries. In the last instance, it is our duty to make an ongoing approximation of this ideal possible. Are we willing to pay what is needed to equalize, step by step, a person's endowments all over the world so that their own efforts will primarily decide their fate rather than an unequal distribution that is beyond their control? To be sure, this would be much more expensive than the familiar forms of tax-financed international aid are, and it would clearly exceed what we are now giving voluntarily. However, the serious doubts about the mere possibility of cosmopolitan justice are doubts about the seriousness of our declaration of belief in egalitarianism: Is it nothing more than lip service?

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