A DEFENCE OF A MINIMALIST ACCOUNT OF COSMOPOLITAN JUSTICE

BY

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CERTIFICATION

I certify that this dissertation, titled "A Defence of a Minimalist Account of Cosmopolitan Justice," is an original research carried out by Mr. Osimiri, Peter Sunday in the Department of Philosophy, University of Ibadan.

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DEDICATION

To the Infinitely Intelligent One, the Source of all pure wisdom

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ABSTRACT

Cosmopolitan justice, the view that justice is a universal idea that should apply to all persons irrespective of nationality has generated a lot of debate among political philosophers. Earlier studies have conceived of justice either as a territorially-bounded concept or as a trans-territorial idea, which must apply globally but failed to provide a trans-culturally persuasive account of justice that would form the basis for regulating transnational relations. This study, therefore, developed an account of cosmopolitan justice founded on the minimum requirement of non-harm that would provide a trans-culturally persuasive basis for regulating relations among nations.

The study adopted aspects of Kant's categorical imperative which emphasised respect for persons as framework. Eight major texts on political philosophy and moral philosophy including Miller's On Nationality (ON), Beitz's Political Theory and International Relations (PTIR), Jone's Global Justice (GJ) and Pogge's World Poverty and Human Rights (WPHR), O'Neill's Bounds of justice (BJ), Kant's Groundwork of the Metaphysics of Morals (GMM), Norman's The Moral Philosophers(MP) and Singer's Practical Ethics (PE) were purposively selected. These works dealt extensively with the question of the proper scope of justice. Conceptual analysis was used to clarify key concepts such as justice, minimalism and non-harm while the critical method was employed to examine earlier approaches to trans-national understanding of justice and to develop a minimalist account of cosmopolitan justice.

Texts on political philosophy revealed the nature of the dispute between cosmopolitans who argue that principles of justice must be extended to the global arena while anti-cosmopolitans perceive justice as applicable only within national borders. Cosmopolitans claim that the level of institutional ties that bind societies across the world are morally significant and that the recognition of basic rights to a minimally decent existence is a basis for cosmopolitan justice (PTIR, WPHR and GJ). Against this view, anti-cosmopolitans contend that justice is a context-dependent norm that is only applicable amongst co-nationals who share special associational bonds (ON). Text on moral philosophy stressed the importance of moral equality of persons which imposes on us the duty of beneficence and non-harm as core ethical principles that ought to

regulate our interactions with others (GMM and PE). Critical intervention shows that the approaches`` of earlier cosmopolitans and anti-cosmopolitans were inadequate on account of their rigid emphasis on institutional and associational ties. In the contemporary world the consequences of our actions increasingly affect distant others. Paying particular attention to duty of non-harm owed all persons and the phenomenon of transnational harm, the principle of justice remains relevant to individuals who do not belong to a common nationality or institutional scheme. The principle of non-harm thereby provides a more persuasive basis for evolving a theory of justice that will be cross-culturally relevant.

Causal responsibility for harm is sufficient to trigger the obligation of justice within and across nations. A minimalist account of cosmopolitan justice founded on the principle of non-harm, therefore, provides adequate basis for regulating transnational relations.

Keywords: Cosmopolitan justice, Non-harm principle, Minimalism, Transnational-relations, Respect for persons

Word count: 482

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INTRODUCTION

Globalisation has transformed the world from a collection of discrete communities interacting occasionally to an overlapping community of fate.[1] Thus, culturally, politically and economically, communities across the world now operate in what is essentially a shared space, albeit, divided into artificial political condominiums called nation-states. This artificial division, notwithstanding, the intensification of transnational relations occasioned by globalising forces and processes has opened up novel forms of social bonds and responsibilities.[2] Events and actions in one locale now carry with it the potential to generate transnational and trans-generational consequences, and it is precisely due to this fact that philosophical reflection about our responsibilities and obligations in the age of interdependence has become an imperative.

About four decades ago, Hans Jonas in his book, *The Imperative of Responsibility* argued that rapid technological advancement has transformed the effect or nature of human action from one whose consequences is confined to a bounded spatio-temporal horizon to one that extends into a boundless spatio-temporal frame.[3] Based on this observation, Jonas concludes that the transformed nature of human action cannot be adequately regulated by traditional ethics. He therefore advocated for the need to develop a new ethic of responsibility to govern human action in the technological age. Incidentally, the ongoing integration of communities into a single global village is driven by technological advances in information and transportation systems. Again the net effect of further development of technology and the spatial expansion of the consequences of human action beyond national borders has made Jonas' call for a new ethic even more urgent today.

Unfortunately, while the new ethic required for regulating global interdependence and interaction demands that we theorise the principles of justice applicable at the global level, conventional political philosophy confines the idea of justice to the domestic

level.[4]From its inception in the days of Plato and Aristotle, until only very recently, the discourse of justice has been intertwined with territorially bounded communities. This is because Plato and Aristotle were particularly concerned with expounding the nature of justice in the small-scale societies of their days and never envisaged the large- scale communities that exist today and the massive interactions between them. With the exception of the Stoics and Kant who thought along cosmopolitan lines, the great majority of works that dealt with the issue of justice in traditional political philosophy almost always operated with the assumption that justice is a territorially bounded concept applicable only within the nation state.[5] Even Rawls whose ideas are generally regarded as the starting point for understanding justice in the contemporary era is caught in the web of what Jan Aart Scholte calls "methodological territorialism," that is, the practice of understanding and investigating social relations through the lens of territorial geography.[6]

The increasing integration of the disparate communities of the world into a "global village" has not only brought about the possibility of generating transnational harm from different locales, it has also thrown into bold relief the 'radical inequality', that is, the extremes of poverty and wealth that have come to characterise our world.[7] It is against this background that some philosophers have begun to challenge the conventional bias of political philosophy that consigns the relevance of the idea of justice to bounded communities such as nation-states. For these philosophers, the widening gap between the rich and the poor, both within and between nations, demands that we go beyond the traditional exclusive focus on domestic justice to articulate a conception of justice that should apply at the global level.[8] The task of constructing a global theory is however confronted with a major problem: the world, in the description of Seyla Benhabib is characterized by 'cultural complexity', a diversity of cultures, each with its varying standpoints on the nature of morality and justice.[9] In this context, it appears that it is impossible to find an Archimedean or transcendental standpoint from which to articulate a theory of justice that will have a transcultural appeal. The main research problem in this thesis therefore, is how to develop an account or theory of justice that can be persuasive across cultures.

Employing various approaches, cosmopolitan oriented philosophers have proceeded to develop accounts of global justice. These include the Utilitarian (Peter Singer), the Deontological (Onora O'Neil and Henry Shue) and the Rawlsian- based(Thomas Pogge and Charles Beitz) conceptions of global justice. In spite of the focus of these various accounts on the regulation of transnational relations, they have been subjected to a barrage of criticisms from different quarters: by realists, communitarians as well as the post-modernists. However, the most vociferous critics of cosmopolitan conceptions of global justice are the communitarians. Thus, the controversy over global justice is often framed in terms of the debate between the cosmopolitan understanding of justice and the communitarian negation of such conceptions.[10] The cosmopolitan conception contends that (1) that the individual human being is the ultimate unit of moral concern and (2) the demands of justice which necessarily issue from considerations of equal concern or the duty of fairness ought to be extended impartially to all human beings regardless of their community or national affiliation. From this point of view, we owe all human beings the duty of justice regardless of whether they are co-nationals or foreigners. Thus, community or national boundaries are irrelevant to considerations of justice except derivatively as spaces within which justice obligations may be fulfilled.[11] We can therefore, legitimately speak of 'justice beyond borders'. Unlike the cosmopolitans, communitarian thinkers deny the idea that the scope of justice could ever be global. They argue that the duty of justice only arises when individuals are connected by valuable associational ties such as shared community or nationality.[12] For the communitarians it is the prior existence of such valuable social relationships that creates the obligation of justice, and since the equivalent of national community does not exist at the global level, we cannot speak of global justice. Instead, all we can affirm is 'Justice within borders'.

If the communitarians are correct, it would follow that the idea of global justice is misconceived. However, if we must insist on global justice, we must either demonstrate to the communitarians that the special associational ties that bound individuals in domestic communities exist at the global level or show them how the ideas of justice can apply to the global arena even if we concede that the "global community" is not characterised by the kind of "thick" associational ties which are found within domestic communities. Beyond this, cosmopolitans must also respond satisfactorily to the

objections of the realists, postmodernists or even Rawls, all of who have expressed very strong skepticism about the possibility of justice at the global level.

Given that the various versions of cosmopolitan accounts of justice referred to above are susceptible to severe criticisms and fail to convince the critics about the validity of the notion of justice beyond borders, my aim in this work is to develop a minimalist account of global justice which is not vulnerable to the standard communitarian arguments. In responding to this communitarian challenge in *Political Theory and International Relations*, a book regarded as one of the classic statements of cosmopolitan justice, Charles Beitz refutes the assumption held by John Rawls and the communitarians that the countries of the world are economically and culturally self-contained entities, more like Leibninz' windowless monads.[13] Instead, he argues that the degree of economic and cultural links between individuals in various nations across the world have effectively transformed the "global" society into a system of mutual cooperation."[14] If Beitz is correct that the world approximates a system of mutual cooperation, it would follow that sufficiently "thick" associational ties now characterises global relations and that the notion of justice can be extended beyond the borders of nation-states to the global sphere. There is, however, a problem with the strategy of making the notion of global justice contingent on the "fact" of global interdependence: the "fact" is a heavily disputed empirical claim. Brian Barry, for instance, has doubted whether the mere fact of economic interdependence in the absence of other relational structures such as political institutions will suffice to justify the validity of extending the idea of justice to the global plane. In his words:

> It seems to me that trade, however, multilateral does not constitute a cooperative scheme of the relevant kind. Trade if freely undertaken is presumably beneficial to the exchanging parties, but it is not, it seems to me, the kind of relationship giving rise to the duty of fair play.[15]

A similar objection has been raised by Henry Shue against Beitz's argument for global justice. In a review of *Political Theory and International Relations*, Shue argues that while Beitz succeeds in showing that nations are not necessarily self-contained territories, he fails to convincingly demonstrate that the international system approximates to a system of mutual cooperation. [16]

In the light of the above objections, Beitz, in his later writings, has abandoned the strategy of grounding global justice on the fact of global inter-dependence. He now advocates for the same conclusion by invoking a Kantian account of the moral equality of persons.[17] Thus, Beitz arrives paradoxically at the starting point of cosmopolitanism, the variety of cosmopolitan thinking which grounds our obligations to the "universal others" by references to our common humanity. The common humanity argument is however a shaky foundation on which to build the idea of global justice in the light of very damaging criticisms raised by the communitarians. The common humanity argument, for instance, does not answer the charge that justice cannot have a global application because of the lack of thick social bonds at the global level.

Thomas Pogge is another Rawlsian who has, in a number intellectual works, sought to establish the validity of the notion of global justice.[18] He repeats most of Beitz's arguments, but he takes the cosmopolitan argument further by emphasizing that the obligation of justice is applicable to the world stage because we share a global basic structure, that is, a set of economic and political institutions that has profound and enduring effect on the distribution of the burdens and the benefits among peoples and individuals around the world. Based on the idea of global structure which is coercively imposed on the poor by the economically powerful states of the world, Pogge shows how the present global order harms the poor and generates issues of justice. He specifically advances three arguments to support the position that the present global order is unfair to the poor. These are (1) the effect of shared institution, (2) the uncompensated exclusion from the use of natural resources and, (3) the effect of a common violent history.[19] From the argument from "shared institutions," Pogge insists that the "citizen and government of the affluent nations "… are imposing (on the world) a global institutional order that foreseeably and avoidably reproduces severe and widespread poverty."[20] From 'the effect of common violent history,' he highlights how the inequalities in the starting point of the world's better-offs and the worse-offs is the product of a single historical process that was characterised by the oppression, conquest and the colonisation of the latter by the former. On the basis of these premises, Pogge concludes that there are morally significant institutional ties that bind the affluent nations and the poor ones. Thus, he submits that Rawls original position and the famous difference principle in the *Theory of Justice* can and must be extended globally.

In Pogge's view, Rawls' reluctance or refusal to extend his *difference principle* to the global level is due to the assumption of "explanatory nationalism," according to which domestic factors solely determine the economic well-being of nations. He goes on to argue that, Rawls is mistaken, since there is a global basic structure that limits the life chances and opportunities of the global poor. Conclusively, Pogge employed the principles espoused in Rawls *A Theory of Justice* to develop an account of global distributive justice. On the question of how to implement the global distributive justice, Pogge endorses the Global Resource Dividend (GRD), a resource tax of roughly 1% to be levied on the use of world natural resources. With specific reference to oil, Pogge estimates that $50 billion could be raised through the GRD for onward distribution to the poor countries of the world. [21]

In our assessment, Pogge's argument for global justice compared to Beitz's is more convincing. Nonetheless, Pogge's account of global justice is vulnerable to a plethora of criticisms. First, the question might be asked whether it is indeed global or domestic factors that are the decisive determinant of a nation's economic development. Risse, for instance, argues that Rawls was right to assume "explanatory nationalism" or to hold that domestic factors are decisive in determining a state's economic prosperity while Pogge was wrong to put the emphasis on global factors, that is, the global basic structure.[22] In his *Law of the Peoples* Rawls highlights a number of objections to show that the attempt of cosmopolitan egalitarians such as Bietz and Pogge to extend the distributive principles of *Theory of Justice* to the global community is unjustifiable. Two of those objections indicate the problem with Pogge's account of global justice. First, Rawls with the aid of a thought experiment shows that global distributive justice will unjustifiably compromise the self-determination of a country that has worked hard to improve its economy if such country is required to share part of its wealth with another country whose citizens opted for leisure and pleasure.[23]

Second, Rawls argues that the distributive measures enjoined by cosmopolitans are unjust because they do not come with a stipulated cut off point¨ One final problem with Pogge's conceptualization of global justice is that he makes the latter to be dependent on the existence of global social and economic institutions that harm the poor. By implication, in the absence of such institutions, we cannot provide a coherent account

of global justice. We maintain that justice such a position is too restrictive. In other words, justice considerations can still be relevant in the absence of common institutions.

In the foregoing analyses, we have been able to show some of the weaknesses of the major attempts at constructing a theory of global justice. In place of these heavily criticised accounts of global justice, we intend to provide a minimalist but more plausible account of global justice which is different in some respects from those presented above.

Against the views held by Rawls and the communitarians, this thesis argues that irrespective of the presence or absence of shared institutions or traditions, causal responsibility for harm is sufficient to trigger the obligation of justice within and across nations. In other words, duties of justice can arise outside common or shared institutions, when we can demonstrate that an agent is causally responsible for the harm inflicted on another. Put schematically:

> If agent X (X being a moral agent) is causally responsible for the harm done to Y(Y being a moral agent), then X necessarily incurs the duty (of justice) to remedy the situation of Y.

If the argument presented above holds, it then follows that justice may well be a norm which ought not to be tied exclusively to some special institutional or associational ties as Rawls and the communitarians imply. The bound of justice therefore is not coterminous with boundaries of national or domestic communities because in this age of interdependence, it is now possible to generate transnational harm, hence, the need for transnational or global justice.

Undoubtedly, the moral intuition behind the thesis explicated above is a very simple one; the novelty, however, is the suggestion that the idea of harm and rectification can be the foundation for developing a minimalist account of cosmopolitan justice which escapes the criticism of postmodernists and, most notably, communitarians. Even if the principles of non-harm cannot be described as the Archimedean or transcendental point from which we can articulate a universally accepted theory of justice, as self-evident moral principles they are likely to secure the endorsement of all the sides to the global justice debate. In fact the

idea of our negative duty not to harm and our positive duty to undo harm when it is inflicted, demonstrates that in spite of the differing conceptions of the good across cultures, these cultural differences and moral standpoints issuing from these differences do not lead to radical incommensurability as ethical relativist would have us believe. Richard Vernon captures the point this way:

> In its appealing minimalism the proposal of global harm principle is continuous with the archetypal use of "harm" by Mill in *On Liberty*. For Mill proposed the appeal to "harm" as way to accommodate the diverse views of life … In the global context as in *On Liberty* then, the harm principle is intended as a strong but minimally divisive restraint, potentially *supported by consensus*, that recognizes two equally indispensable considerations: the other-regarding nature of our actions and the otherness of those whom our actions affect.[24]

Indeed, our negative obligation not to harm others wrongfully approaches what Rawls described as an overlapping consensus. In Rawls' account, an overlapping consensus is achieved when, in the context of reasonable pluralism, citizens support the same basic principles for different reasons. For Rawls, while people may reasonably and rationally hold vastly different religious, philosophical and moral beliefs they could also all arrive at a free- standing principle that is nonetheless consonant with their different worldviews.[25] non-harm represents such a free standing principle, given its affirmation from within religions as diverse as Christianity, Buddhism and Confucianism as well as in secular philosophy.

Conceiving cosmopolitan justice as rectification of harm does have a number of advantage over rival accounts of cosmopolitan justice. Singer's Utilitarian account of cosmopolitan justice, for instance, have been accused of being over-demanding for an average individual in that it fails to specify the reasonable limit of the affluent's universal duty to sacrifice towards schemes designed to alleviate global poverty. Cosmopolitan justice as rectification solves this problem of "over-demandingness" by specifying that all that justice requires, as distinct from the demands of charity and heroism, is the rectification of the harm inflicted on the poor.

Apart from clearly specifying what global justice requires the minimalist conception of justice canvassed here escapes Rawls' criticisms of other accounts of cosmopolitan justice to the effect they do not stipulate any cut off point at which the duty of justice to the global poor would have been satisfied. Nor can the minimalist account of cosmopolitan justice defended in this work be accused of violating the self-determination of the hardworking rich countries by arbitrary requesting that they contribute part of their hard earned wealth to leisure-oriented poor societies.

The aim of this thesis is to develop a minimalist account of global justice from a cosmopolitan perspective. Its objectives are:

1. To show that a coherent account of a theory justice needed to regulate transnational relations can be developed
2. To meet the Rawlsian and the communitarian challenges that justice cannot be conceived outside institutional or associational ties.
3. To emphasise the notion of rectificatory justice in transnational relations.

In the light of the fundamental character of the philosophic enterprise, this thesis proceeded by adopting a combination of conceptual and critical methods. The conceptual method was employed to clarify key concepts such as justice, minimalism and non-harm while the critical method was employed to examine earlier approaches to trans-national theories of justice sequel to developing a minimalist account of cosmopolitan justice. Being primarily a library-based research, gathered "data" in form of facts, arguments and theoretical propositions on the question of global justice and other related concepts were subjected to conceptual analysis and rigorous logical scrutiny in a bid to facilitate a systematic understanding of the issues. Ultimately with the adoption of the conceptual-analytic approach it is expected that the researcher is placed in a vantage point from which he/she is able to lay hold on a nuanced meaning of the ideas under investigation, demonstrate their implications and, of course, reject, accept or even modify them, where necessary.

In addition to the conceptual analytical approach the work employed the constructive method in developing a minimalist account of cosmopolitan justice. Taking the harm

principle and the duty of rectification as points of departure, an attempt was made to weave together a theory of cosmopolitan justice which overcomes the weaknesses of the utilitarian, the deontological as well as the Rawlsian-based approaches to cosmopolitan justice.

The thesis seeks to make a positive contribution to the ongoing intense debate between the cosmopolitans and the broad coalition of perspectives, which might be designated as anti-cosmopolitan. With particular respect to the disagreement between the cosmopolitans and the communitarians, over the scope and content of justice, this thesis contributes to knowledge by seeking to break the impasse which has dogged the debate in the past few years. This is done by demonstrating that the principle of justice can be legitimately conceptualized outside social and economic institutions. As have been shown in the body of the work, an institutional or associational conception of justice is behind the reason why the cosmopolitan-communitarian debate over the scope of justice has been characterised by a stalemate. More significantly, this work identifies two important ideas that are central to moral thinking worldwide, namely, "non-harm" and "rectification" around which it wove a minimalist account of cosmopolitan justice. Thus, it on the one hand it undercuts the communitarian argument that justice is only relevant in the context of special associational ties such as nationality. On the other hand, it demonstrates to the relativist that global cultural diversity does not pose an insuperable barrier to the formulation of an account of global justice.

As mentioned above, the forces of globalisation such as the dramatic advances in transportation, communication and production technologies have significantly transformed the ways people and societies are interlinked across the world. One significant implication of the intensification of global interdependence is that the choices and chances of individuals are increasingly being shaped by events taking place outside their immediate national borders. This change in circumstances certainly makes urgent the need to develop a theory of global justice, which will become the basis for regulating transnational relation, and a rallying point for international cooperation.

For, while the development of a plausible theory of global justice becomes something of an imperative in the globalised world, much of traditional political philosophy still

cling to the notion that the principles of justice are only relevant to territorially bounded communities. This thesis represents, and contributes to the concerted efforts by cosmopolitan oriented philosophers to extend the legitimate sphere of justice beyond the nation state.

The search for a theory of global justice becomes all the more critical in the light of the intellectual development of the last two decades, specifically, the rise of postmodernism which has promoted local, contextual and parochial discourses and as such, has encouraged the development of an intellectual climate that is hostile to thinking globally and developing principles of planetary interdependence. From the postmodernist and communitarian perspectives, the cultural complexities of the world present an insuperable obstacle to the development of plausible account of global justice. The justification of this thesis lies in the attempt to develop a minimal conception of global justice that is not vulnerable to the criticism raised by anti-cosmopolitans.

The first chapter, entitled "On the Nature and Meaning of Justice" seeks to arrive at a holistic understanding of the nature and the meaning of justice. It clarifies the important distinctions between 'procedural' and 'substantive justice' and the differences between, 'distributive', 'commutative' and 'retributive justice', on the other hand. Beyond this basic distinctions, the chapter examines in some detail some selected philosophical accounts of justice from Plato to Rawls. From all these perspectives on justice, it concludes by arguing that one theme that runs through all these accounts of justice is the emphasis that each of them places on justice as a territorially bounded norm. It also highlights the fact that the notion of bounded justice is increasingly being challenged by cosmopolitan philosophers who argue for the need to add a global dimension to our conventional understanding of justice.

In Chapter two, which is titled "Perspectives on Cosmopolitan Justice," we shall examines in some detail the meaning of cosmopolitanism, the major distinctions that could be drawn in the discourse on cosmopolitanism and the various principles of cosmopolitanism. The chapter also undertake a critical exposition of the various accounts of cosmopolitan justice. In particular, it examines Peter Singer's utilitarian

account of cosmopolitan justice. It also provides a detailed analysis of the deontological approaches to cosmopolitan justice as represented in the rights-based approach of Henry Shue and the duty-based approach of Onora O'Neill. Of course, while, it acknowledges that the two perspectives may differ in some respects, it concludes that they are actually two sides of the same coin and as such can theoretically complement one another. Finally, the chapter explicates the Rawlsian-based perspective which provided the foundational inspiration for the accounts of Beitz and Pogge on cosmopolitan justice. Here it is worth mentioning that every account of cosmopolitan justice has its strengths and weakness. Thus, this chapter concludes by examining the criticisms raised against the different accounts of cosmopolitan justice.

Chapter three, with the title "Cosmopolitan Justice and Its Critics" discusses the plethora of objections which have been raised against cosmopolitan justice The chapter also examines the position of the realists who reject any talk of justice, or indeed, morality, in global relations, on the ground that morality is irrelevant to international relations since states exclusively pursue national interest and power within the global anarchical order. The response was that the image of international Hobbessian order promoted by the realists is anachronistic. To borrow a phrase from Allen Buchanan, the picture of the world painted by the realist is that of vanished Westphalian order.[119] The point here is not that states are no more crucial actors on the global stage or that they have suddenly become altruistic; rather, it was argued that the global stage has become populated with a critical mass of non-state actors and that states pursue the nationalist interest and power within the constraint of a growing corpus of international norms and conventions. On Nagel's particular charge that there is no global sovereign to enforce global justice, it could be replied that there exists is in the world today a network of countervailing centres of power that makes possible the enforcement of aspects of international norms such as the World Trade Organisation, the United Nations and myriad of organizations that make up the global justice movement.

Similarly, David Miller's argument rejects the idea of global justice by stressing self-determination and national affinity. The response to Miller's position is that national self-determination is only meaningful within the context of just background conditions which guarantee that the self determination of economically disadvantaged states has

not been violated in the first place. It was also argued that national affinity, which Miller considered as the ground of justice does not pass the test of logical scrutiny to the degree that nationality is imagined as Benedict Anderson is wont to argue. More importantly we show that Miller's conceptualisation of national affinity is too simplistic. The reality is that globalisation has complicated the character of national attachment such that while national attachments are fragmenting within states, in another breath, social bonds that transcend the borders of the state are being forged.

Against Michael Walzer's relativistic arguments, that given the fact of cultural diversity makes it virtually impossible to develop an account of justice which will be persuasive across cultures, the thesis argues that cultural diversity does not necessarily rule out the possibility of developing a trans-cultural account of justice. We show that the principles of global justice already inform some of the norms presently regulating global relations for example, the Kyoto agreement.

Finally, John Rawls' argument which limits the issues of global Justice to a mere duty of assistance to burdened societies. Is also critically assessed. The response here is the duty of assistance and that of justice are quite separate duties, thus they are not coterminous with each other. We also highlight the argument of Buchannan and Kok Chor Tan who provided reasons why the principles of global distributive justice ought to be incorporated into the law of peoples.

In spite of the objections that have been leveled against global justice by the anti-cosmopolitan, it is evident that the idea of global or cosmopolitan justice continues to hold an attraction for those who are interested in the institutionalisation of a more just global economic order. But as we have highlighted above, some skeptics are of the view that cosmopolitan justice is highly demanding due to the fact that existing theories of cosmopolitan justice tends to sanction the redistribution of resources from affluent to poor nations.

In Chapter Four, which is titled "A minimalist Account of Cosmopolitan Justice" we develop a minimalist account of justice, one that emphasises rectification of harm rather than redistribution of resources. In order to arrive at our minimalist account of cosmopolitan or global justice that commands acceptance across philosophical schools,

religions and cultures, the chapter takes as its starting point the twin principles of "non-harm" and "rectification", two principles that are relatively uncontroversial moral imperatives. To demonstrate the universal endorsement of the non-harm principle the chapter provides evidence that religions as disparate as Buddhism, Christianity and Confucianism affirm the non-harm principle, just as philosophers from the ancient to the contemporary era. The chapters also argue that the principle of rectification is a long standing principle of morality in philosophical reasoning and thus examines Aristotle and Robert Nozick's treatment of the principle. From a combination of the notions of harm and rectification a minimalist account of cosmopolitan justice was developed which required that given the rise of transnational harm in the age of globalization, the idea of justice cannot, any more, be confined to the territorially bounded nations state as the communitarians and nationalist are wont to argue. If justice demands the rectification of domestic harms, by the same logic, it also requires the rectification of transnational harms.

The fifth and final chapter, **"**A minimalist Account of Cosmopolitan Justice: Justification and Application" provides an elaborate justification for the minimalist account of cosmopolitan justice (MACJ), and demonstrates the usefulness of this new account of justice to a concrete, real life problem, by applying it to the problem of global climate change. In the first part of the justification, the chapter highlights the advantages that MACJ has over rival accounts. Following Rawls' assertion that "justification proceeds from what all parties to the discussion hold in common," it was reiterated that the negative obligation not to wrongfully harm others enjoys such a universal endorsement that it approaches what Rawls described as an overlapping consensus in sense that in spite of global ethical pluralism, the non-harm principle is supported across cultures. The second part of the justification raises and examines potential objections to the MACJ and refutes these objections by providing the required defence.

The final section of the chapter applies the minimalist account of cosmopolitan justice to the well known problem of global warming, focusing specifically on the question, "What is the fair allocation of cost for preventing further global warming?" Here, the work examined the various schemes for just allocation of this responsibility such as the

Carbon Intensity Approach, the Per-Capita Emission Principle and the *Historical Responsibility Approach* ("polluter pays" principle) and concluded that in the light of common but differentiated culpabilities in the damage of global climate, the minimalist account of cosmopolitan justice naturally endorses the "polluter pays" principle.

Endnotes

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CHAPTER ONE

ON THE NATURE AND MEANING OF JUSTICE

Introduction

The concept of Justice with that of equality and liberty "has enjoyed unrivalled prominence in moral and political philosophy from Socrates of Plato's Republic in the 4th century B.C. to contemporary American philosopher, John Rawls."[1] Unfortunately, in spite, or because, of its prominence, justice remained an "essentially-contested concept."[2] A casual survey of the political theory literature from Plato to Gauthier reveals that the concept has been assigned a diverse array of meanings, which sometimes are mutually incommensurable. In the words of Brian Barry:

> …despite more than 2000 years of subsequent political theorizing the concept still has no settled meaning. It is not simply that there are fundamental disputes at the normative level (it is only to be expected that individuals will disagrees as to the justice or the injustice of particular laws, policies and institutions) it is the fact that there is little agreement as to what the concept means that causes such serious problems. It appears to be the paradigm case of an essentially contested concept.[3]

From the foregoing, it is clear that one's understanding of justice is usually informed by one's different intellectual leanings. In the bid to illuminate the meaning of justice, this chapter shall examine the views of such thinkers as Plato, Hobbes, Hume and Rawls. However, our understanding of the concept will be aided by examining some general comment about the nature of justice. With a survey of the definitions of justice, the idea that one gets is that justice has to do with the idea of "giving to each one his due" as expressed in the Latin phrase *suum cique tribuere*. Thus, Aristotle is famously quoted as defining justice as the act of "treating of equals equally and unequals unequally".[4] For Thomas Pogge, "justice is a central moral notion associated with fair and impartial procedures…as well as with persons being treated evenhandedly and in a morally befitting way."[5] Most people would agree that justice requires that we give each individual his/her due entitlement; in this sense, justice relates to the ideas of impartiality, fairness and even-handed treatment. This is how far the consensus goes. But when it comes to specifying what is to be regarded as "due" to an individual or group under a given situation or what impartiality or fairness entails, scholars do not

usually agree. One of the problems that lies at the heart of characterising justice therefore is the challenge of filling out the content of justice.

The foregoing observation notwithstanding, it appears that justice is closely related to the concept of equality. Aristotle's definition of justice, which admonishes us to treat equals equally and unequals unequally, certainly places great emphasis on the notion of equality His ideas of the theory of justice points to the principle of "treating likes cases alike." Of course, this principle does not commit us to the ontological postulate that humans are fundamentally equal. Rather, it provides a formal rule urging for fairness in dealing with others. The idea that we should treat people fairly presupposes a "principle of rationality which holds that some reason must always be given for different treatment."[6] Equal treatment is certainly crucial to the attainment of justice, and where we see differential treatment, justice demands a justificatory explanation. Here, we should point out that justice is a moral or normative concept. According to Andrew Heywood, "that which is just is certainly morally "good" and to call something "unjust" is to condemn it as morally bad."[7] However Justice is not be equated with morality. At the best, justice is an important part of morality since the sphere of morality is wider than that of justice.[8] For Aristotle, justice is but a special virtue, which is distinguishable from virtues in general, a distinction that contemporary philosophers still maintain.

For Barry, the fact that the demands of justice are obligatory separates it from other moral virtues:

> The rules of justice whatever they are, are thought to have special obligatory force which other moral virtues do not have. Not only is it right to act justly, it is also specifically wrong to act unjustly. Other moral actions such as giving large proportion of ones income to charity would certainly be regarded as good or morally praiseworthy, but they would not be regarded as obligatory and it would not be wrong not to perform them.[9]

As special kind of virtue, Barry explains further, justice is a distributive concept. "It is primarily concerned with the way that rewards and punishment and so on are distributed to individuals in a rule-governed practice and its intimate connection with

fairness indicates this."[10] From the position above, it is clear that justice differs from beneficence, since the demands of the former are obligatory while the demands of the latter are supererogatory. However, unlike many moral virtues, justice is not only an evaluative concept; it is also a distributive concept.

Justice is a complex and multi-dimensional concept, requiring that it be rigorously defined.

Some basic distinctions

Philosophers and other thinkers who theorise on justice often make a number of important distinctions. For instance 'formal' or 'procedural' justice is distinguished from 'material' or 'substantive' justice, just as a distinction is drawn between distributive, commutative and retributive justice. I will examine these forms of justice in turn.

Formal or procedural justice

Procedural justice refers to the method by which decisions and outcomes are generated in contradistinction to the content of the decisions themselves. Essentially, it consists in employing fair and impartial decision procedures. In some contexts justice is entirely a procedural matter such that it is taken for granted that when the procedural rules governing the situation are impartially applied, the outcome is deemed to be just. This form of justice is aptly illustrated by athletics competition. The object of the race is quite straightforward: to determine the fastest runner. Thus, the athlete who beats the others to breasting the tape is declared the winner as long as there is no form of cheating, jumping the gun or the use of performance-enhancing drugs to gain undue advantage.

One basic principle that informs procedural justice is the principle of formal equality.[12] By this principle, the rules are supposed to be applied impartially such that it precludes discrimination on the basis of gender, race, religion, ethnicity or social background. It must be granted, however, that impartial application of rules does not necessarily guarantee just and fair outcomes. As Chan puts it, an "impartial administration of justice can comport theoretically with an oppressive system of substantive law."[13]

Generally, however, procedural justice or due process usually accompanies substantive justice. Conversely, where procedural justice is missing, substantive injustice often abound. Perhaps it could be said that procedural justice is a necessary, if not a sufficient condition for substantive justice.

Material or substantive justice

As indicated above, just procedural rules do not necessarily guarantee just outcomes since it sometimes results in unjust and unfair outcomes, even when they are meticulously applied. Hence, substantive justice is important. But what is substantive or material justice? While procedural justice implies the impartial application of the rules, substantive justice examines the moral consequences of treating a person or collectivity in a particular way. Over and above the question of just application of rules, substantive justice is an other-regarding principle. It questions whether our actions or inactions amount to "treating others in a morally befitting way."[14] The problem with substantive justice, however, is that whereas there is considerable agreement about what constitute procedural justice, the same cannot be said of the former. What "treating others in a morally befitting way" entails is a matter of deep controversy. With regard to the distribution of social goods, there have been diverse suggestions. Some advocate desert others advocate needs, some argue for private property, others for collective ownership. Given that these positions involve moral judgments or normative evaluations, there are no objective methods or mathematical calculus for resolving the issues. In the words of Andrew Heywood:

> Like all normative principles, the idea of substantive justice is subjective at heart, it is a matter of opinion from group to group, from society to society and from period to period. Justice is this sense, a relative concept. It perhaps only has meaning for particular groups or individuals and cannot be applied to society at large.[15]

While Heywood is right to claim that there are some serious normative disagreement between and across groups and society about the nature of justice, it is not really true that justice is matter of opinion. If this were the case, then why is it that all societies condemn murder? Again, why is it that there is as near general consensus that we ought

not to unjustifiably harm others? In the midst of all the controversies about substantive justice there are still a few norms that commands some consensus.

Distributive justice

Unlike retributive justice, which is concerned with legal penalties, distributive justice is concerned with social welfare. Distributive justice is a set of principles that regulates the process of the distribution of goods, rights, duties, benefits, burdens and prosperity in society.[16] Sometimes, designated as social justice, distributive justice is said to have been achieved when the distribution of the benefits and burdens of the collective existence within a society is impartial, fair and morally defensible. In short, distributive justice is about "who gets what." Distributive principles seek to answer the following questions, "what constitutes a fair distribution of societal wealth?" "What criteria determine who gets what?" "What level of disparity of wealth, if any, can be regarded as unjust?" In recent scholarship, some thinkers are beginning to apply the principles of distributive justice at the global level. Hence, such questions whether there are any grounds for arguing that the unequal distribution of wealth between the global North and South is immoral? Or whether the global basic structure harms the global poor?, is becoming increasingly salient.[17]

The answers to the questions raised are definitely not straightforward, which explains why the discourse on justice is embroiled in intense debate and clashing perspectives. With particular reference to the question, "what constitute a just distribution?" Nicholas Rescher has identified seven different positions, what he calls the "seven canons of distributive justice."[18] These are: (a) *the canon of equality* or strict egalitarianism, which states that every person should have the same level of distribution, (b) the *canon of need* which demands that distribution should be based on needs (c) the *canon of achievement*, which holds that the level of distribution should be determined by individuals' ability, (d) *the canon of effort*, according to which individuals should be rewarded with the amount of the social pie commensurate with their effort, (e) *the canon of productivity* which stipulates that individuals be rewarded according to their actual contribution to society, (f) *the canon of social utility*, which demands that the just distributions is that which promotes the greater good of the greater number, and finally,

(g) *the canon of supply and demand* which holds that market forces ought to determine who gets what.[19]

The multiplicity of perspectives on distributive justice outlined above provides a picture of how intense is the debate on distributive justice.

Commutative justice

Commutative justice also known as reciprocal justice is an idea which had its origins in ancient times. It is that sphere of justice which governs economic exchanges. Economic transactions take place in all societies. Commutative justice is concerned with the fairness of such transactions. It demands that exchanges should be mutually beneficial. According to Younkins, commutative justice "involves the exchange of things profitable for things profitable, as I supply a benefit for you, I also receive one from you." [20] Put differently:

> A contract of exchange is an act of voluntary commutative justice in which each person obtains something of greater value to him than that which he gives in return. The purpose of commutative justice is to preserve equality of rights between individuals. The idea that each person, minding his own business, should receive rewards that are appropriate to his work implies both freedom and responsibility.[21]

It should be clear from the above observation that when the benefit of an economic exchange between two parties is shared in a lopsided fashion in the favour of one of the parties without an appropriate justification, the exchange flouts the principle of commutative justice and could for that reason become a matter for litigation or moral disapprobation.

Retributive justice

Retributive justice or corrective justice concerns the penal system that prescribes the just compensation for victims and punishments for the perpetrators of crime. Retributive justice in a sense is a backward looking form of justice in that it tries to correct a wrong that was done in the past by way of compensation or punishment. One major principle of retributive justice is the principle of proportionality, which demands

that "the severity of punishment should be commensurate to the seriousness of the crime for which it is inflicted".[22] Hudson captures the point in a concise fashion this way: "The "re" in "reward", and "repayment" and "retribution" points to the past and suggests that it must be reflected in what is being done now. There must be some sort of equivalence.[23]

In the discussion of the meaning of justice we have seen that there are differences between procedural justice and substantive justice as well as distinction between distributive, commutative and retributive justice. The last three constitute what is usually regarded as types of justice. Conventionally scholarly analysis of justice endeavours to differentiate between distributive, commutative and retributive justice. But the point needs to be made that while analytical simplicity demands that we uphold the distinction between the three forms of justice, in practice, they are usually interrelated , thus in some cases we may not be able to neatly pigeonhole an act into distributive, retributive justice or commutative justice. Tucker explains why this may be so:

> Retributive justice, principles of punishment and corrective justice, principles of compensation are dependent on distributive justice. When a person violates just distribution, for example, by misappropriating something by theft, the violation deserves retribution commensurate with the violation, When a person loses right or goods that are due to them according to distributive justice, they deserve corrective justice, compensation commensurate with the degree of loss.[24]

In Tucker's example above, we see that the three types of justice are not easily disentangled in real life. Hence, it is important to guide against an essentialist bent that takes the distinction between the types of justice discussed above as absolute. So far, some light has been shed on the nature and meaning of justice. In order to further deepen our understanding of what justice is, the evolution of the theory justice shall be examined from Plato to Rawls, that is, from ancient period of philosophy to the contemporary. However it is beyond the scope of this work to discuss the whole gamut of work on the idea of justice as represented in the history of philosophy. Hence, the

survey shall be restricted to the discussion of major thinkers such as Plato, Hobbes, Hume and Rawls.

Plato on justice

A careful reading of Plato's *Republic* reveals two distinct but interrelated ideas of justice namely: justice is harmony and justice as doing one's own job.[25] The ideas as stated are, however, inadequate as explanations of Plato's conception of justice since they are rendered only more meaningful within the larger context of Plato's discourse in the *Republic*.

Central to Plato account of justice is his division of the soul into three parts and the consequent hierarchisation of these parts. For Plato, the soul in principle is divisible into three constituent parts, namely the rational part, the spirited part and the appetitive part. These constituent parts of the soul, according to Plato form a hierarchy with reason (the rational part) being superior to the other two. The spirited part in the same vein is regarded as superior to the appetitive part. What are the functions of the three constituent parts of the soul? For Plato the appetitive is the part "with which it lusts, hungers thirsts and gets excited by other appetites." [26] It also is part of the soul that craves for immoral gratification, with its desires not motivated and regulated by rational consciousness but by temporal fleshly pleasures. The spirited is courageous and strong willed and inaturally it "listens" to reason and its beliefs, provided it has not been heavily corrupted by bad upbringing. The last, and by all means most significant, is the rational part, which is the part of the soul that employs rational calculations and reasoning to assess situations and control actions.[27] It also gives leadership to, and controls both the spirit and the appetite by making balanced decisions which are motivated by the interest and wellbeing of the soul.

The implication of Plato's division of the soul into different parts is that the soul is subject to divergent pulls and motivations. For the soul to stay on a right path, it has to constantly yield to the urgings, promptings and control of the rational part which only has the capacity to steer it aright. For Plato the just man is one who achieves a state of internal harmony, one in whom the rambunctious craving for instant gratification of fleshly appetites and the stubborn doggedness of the spirit is completely subdued by the

tempering control of the rational part. In Plato's words: "a soul is just when it is so organised that reason is assigned to rule the person, the spirit to defend him, and appetites to provides for ones bodily needs".[28] Here Plato means that each constituent part of the soul performs its function under the dominion and the rule of the rational faculty. On this reading, the unjust man would be one who has allowed the appetite to take over the soul in a surfeit of indulgences, one who permits the unfettered outburst of irrational anger, and watches his reason atrophy even as it recedes into oblivion.

There is beautiful parallel between Plato's depiction of the just individual and the just city. This is what George Santas, means when he speaks of an isomorphism between Plato's conception of "psychic justice" (justice of the individual) and "social justice" (justice of the city).[29] Just as the soul, the state (or for Plato, the city) is divided into three classes of people, the workers, soldiers, and rulers

The question may be asked, how do the states determine who falls into what class? According to Plato, children are to be communally brought up as they are separated from their parents at birth to undergo training. This is to ensure that every child gets an equal opportunity of being admitted into any of the classes without any prejudice to their family background. The evaluation and subsequent assignment of people into classes is based purely on their attitude and natural capabilities. So what are the natural qualities found in the classes identified by Plato? The workers are persons with inborn abilities for arts and trade, *ipso facto*, are best suited to provide a particular form of labour. They engage in providing the basic material needs of the society, such as food, clothing, and furniture. The soldiers are persons of high spirit who have natural strength to fight and defend the state. They must possess not just the virtue of courage, but should also have demonstrated their loyalty to the state beyond any shadow of doubt. The rulers are persons of innate high intelligence who are best fitted to direct the affairs of the state. These are those who do not seek the glory or the fame of ruling but who see the privilege as a call to duty and as service to the people, whose interest they seek to protect.

From the above we notice that there is a parallel between Plato's division of the soul and the different classes present in the society. The workers and the appetitive part

share the virtue of moderation. Both the soldiers and the spirited part share the virtue of courage while the ruler and the rational share the virtue of wisdom, which is needed to direct the affairs of the state. From the classification of the classes and the principle of specialisation inherent in the idea, Plato arrives at his definition of a just city, which is that justice in the city consists in doing one's own job. The principle of specialisation that is central to Plato's conceptualisation of justice suggests that society will function better when each individual occupies and functions within the occupation he or she is better suited for. As Harmon's makes clear, the principle of specialisation will prevent the artisans from acting in any other fields of state activities and guarantees that the upper classes are not made to perform tasks which are the proper function of the artisans. "Where each individual engages only in the area of specialisation which he is better suited for, external conditions will be properly ordered."[30]

Since external order is *sine qua non* for internal harmony, Plato argues that the specialisation based on the natural aptitude is crucial for the attainment of justice. From, this analysis, we could see that for Plato justice has to do with the development of internal harmony in the individual and the state through the reign of reason. Explaining this point Michael says for Plato:

> Justice for the individual results from temperance. If each person is dominated by one of the three impulses-appetites, spirit and reason-justice will be served if he lives a life in which his primary impulse is made to serve the community and the lesser impulse are strictly curbed, since permitting them free play would disrupt the state. As justice in the state results from an harmonious balance achieved through specialization, so justice in the individual is achieved when each individual performs only the role for which he is qualified. The composition of the good state reflects the harmonious soul of the individual. The highest form of humanity is the person in whom appetite and reason are dominated by reason. The highest form of state is one in which those who *know* control the affairs of the state. [31]

According to H. G. Sabine and T. L. Thorson , for Plato, "Justice is the bond which holds a society together, it is a harmonious union of individuals, each of whom has found his life work in accordance with his natural fitness and his training."[3] Put

differently, from Plato's perspective, justice is harmony within the individual and society premised on the primacy of reason and wisdom in the human soul as well as in society.

Alfred North Whitehead once observed that all Philosophy is nothing but a footnote to Plato.[33] What the assertion means is that all philosophers since the ancient time until now merely expounded on what Plato has said. It is therefore, befitting to begin our discussion on justice from Plato. In the modern period of philosophy, Thomas Hobbes and David Hume also expressed some opinion on the idea of justice. It is to them we will turn in what follows below.

Hobbes on justice

Hobbes' theory of justice flows from his assumptions about human nature and his depiction of the natural condition of mankind. In order to understand his account of justice, therefore, it is necessary to first familiarise ourselves with his views on human nature and the natural state of man. One basic premise underlying Hobbes political philosophy is the assumption that all men are equal, which explains the reason while he is regarded as a liberal despite his stout defence of the need to vest the sovereign with absolute power.[34] Equality, from the perspective of Hobbes, unfortunately results in some form of destructive anarchy in the context of the absence of the sovereign. In his words:

> Nature has made all men so equal in the faculties of the body and mind; as that though there be found one man sometimes manifestly stronger in the body or of quicker mind than the other; yet on when all is reckoned together, the difference between man and man the difference is not so considerable… from this equality of ability ariseth equality of hope in attaining our ends. And therefore if any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies and in the way to their end (which is principally their own conservation, and sometimes their own delectation only) endeavour to destroy or subdue on another.[35]

For Hobbes, equality means "simply that people are capable of hurting their neigbours and taking what they judge they need for their protection." [36]

Apart from his belief in the basic equality in their abilities, Hobbes is of the opinion that human beings are essentially driven by the passion for glory, honour and self – preservation. Again, the cumulative effect of the unleashing of these passions without the regulating control of a sovereign is perpetual threat of violent conflict and pervasive insecurity. In Hobbes words, "in the nature of men, we find three principal causes of quarrel. First competition; secondly, diffidence; thirdly, glory. The first maketh a man invade for gain; the second, for safety; and the third, for reputation."[37]

Thus, the general inclinations of mankind, and the absence of a constituted overarching authority to oversee their affairs, plunge the individuals in the state of nature into a condition of war. Hobbes minces no words in describing the misery and insecurity that pervades the state of nature as state of "war, as is of everyman against every man." Everyone in the state of nature lived in "continual fears" and was confronted by the danger of violent death. In short life became "solitary, poor nasty, brutish and short."[38]

Given Hobbes' depiction of human nature as egoistical, one driven by glory and competition, the conclusion could be drawn that humans are doomed to the anarchy and the chaos of the state of nature since they lack the capacity to establish a peaceful and orderly society. Hobbes, however, argued that, upon rigorous logical reflection our instinct for self-preservation leads us to certain natural laws which could become the basis for creating a civil society. According to Hobbes a natural law is "a general rule found out by reason" which instructs us as to what to do and what not to do.[39]

In the *Leviathan* Hobbes identified and elaborated on Nineteen laws of nature. The first law of nature states that everyone ought to "seek peace and to follow it."[40] This law, Hobbes, believes is logically deducible from our concern for survival, since it stands a better chance of being guaranteed under conditions where everybody collectively pursue peace. From this basic law Hobbes derives a second one: " a man be willing; when others are so too, as far –forth, as for peace, and defence of himself he shall think it necessary, to lay down his right to all things; and be contented with so much liberty against other men as he would allow other men against himself. " [41] what this simply means is that when others are willing to give up their 'hostile rights' towards us, we should reciprocate by doing the same.

On the basis of these laws of nature, and the desire to escape the insecurity, anarchy and the chaos of the state of nature, Hobbes concludes that self-interested, rational individuals in the state of nature entered into a compact, famously known as the 'social contract', to establish civil authority. The parties to the contract are the individuals "who promise each other to hand over their rights to govern themselves to the sovereign."[42] It is noteworthy that Hobbes postulated that the sovereign could be a "man" or an "assembly," which is why some have argued that Hobbes political philosophy is consonant with democracy. [43]

Having outlined Hobbes' depiction of the movement from the state of nature to civil society as well as his characterization of human nature, the ground is set for the examination of his views on justice. As was already mentioned, Hobbes political theory covers two periods of human history, namely the hypothetical era of the state of nature and the period after the institution of civil society. Accordingly his theory of justice straddles both eras. For Hobbes, there was no such thing as justice or injustice in the state of nature. Accordingly, he states

> To this war of every man against every man, this also is consequent; that nothing can be unjust. The notions of right and wrong, justice and injustice have there no place. Where there is no common power, there is no law: where no law, no injustice. Force, and fraud, are in war the two cardinal virtues. Justice, and injustice are none of the faculties neither of the body, nor mind. If they were, they might be in a man that were alone in the world, as well as his senses, and passions. They are qualities, that relate to men in society, not in solitude. It is consequent also to the same condition, that there be no propriety, no dominion, no *mine* and *thine* distinct; but only that to be every man's, that he can get; and for so long, as he can keep it.[44] (Emphasis in the original)

For Hobbes, justice and injustice could not have existed in the state of nature because where there is no common power or sovereign, vested with coercive powers, there can be no law, and where no law there is can be no justice. Here we are dealing with a deductively valid argument here. If Hobbes' premises are accepted as true, then we must also accept his conclusion. Upon critical reflection, however, it is surprising that Hobbes argues that the notion of right and wrong, justice and injustice had no place in

the state of nature in the light of the fact that he had earlier admitted that certain natural laws applies to the state of nature. If there are natural laws which must be obeyed in the state of nature, then it would appear a breach of such laws may result in injustice. Interestingly, Hobbes had provided an ingenious distinction in the body of his work to dispose off the above objection. In the Hobbes' theory of justice there are two kinds of obligations which must be kept distinct: *inforo interno* and *inforo externo*. *Inforo interno* obligations bind one to a desire to obey; *inforo externo*, on the other hand, is an external obligation which arises when there is someone to enforce it.[45] From this definition and distinction, while *inforo interno* was present in the state of nature, *inforo externo* was not present. Hobbes entire argument that justice and injustice do not apply in the state of nature rests on the premise that there was no *inforo externo* obligation the state of nature.

With the concept of *inforo externo*, Hobbes links the notion of justice to the presence of a sovereign coercive power that possesses the unquestioned ability to enforce the terms of justice. But why is the existence of a sovereign a precondition for justice? Thomas Nagel explains that since Hobbes construed the principle of justice and moral rules that would only be mutually beneficial, if they are mutually obeyed, the absence of a sovereign to enforce the rules means that individuals are not assured 'that others will be conformed to the rules if he does.'"[46] Thus the lack of assurance that others will conform to the rules of justice in the absence of the sovereign in the state of nature makes justice impossible and render covenants null and void. In the words of Hobbes:

> But because covenants of mutual trust, where there is a fear of not performance on either part, (as hath been said in the former chapter,) are invalid; though the original of justice be the making of covenants; yet injustice actually there can be none, till the cause of such fear be taken away; which while men are in the natural condition of war, cannot be done. Therefore before the names of just, and unjust can have place, there must be some coercive power, to compel men equally to the performance of their covenants, by the terror of some punishment, greater than the benefit they expect by the breach of their covenant; and to make good that propriety, which by mutual contract men acquire, in recompense of the universal right they abandon: and such power there is none before the erection of a commonwealth.[47]

If we put aside for a moment the issue of justice in the state of nature, we are still left with the question of "what is justice?" in a civil society. Hobbes discussed his account of justice primarily in the fifteenth chapter of the *Leviathan* where he specifies the third law of nature, which demands that "men perform their covenant made." Keeping the third law, he insists, is the "fountain and original (sic) of the justice." Differently put, justice consists in the keeping of valid covenants. That justice is so construed by Hobbes becomes clearer when we consider that he expressly declares that "the definition of injustice is no other than the non- performance of covenant."[48] With the definition of justice as the performance of covenant, Hobbes seems to be making an allusion to the social contract in which the people agreed to obey the sovereign.[49] This interpretation is supported by Hobbes' analysis of the relation between law and justice. It appears that in Hobbes' view justice and morality began with the institution of the sovereign; thus no rules of justice or morality can limit the acts of the sovereign. This much is affirmed in the following statement: "to the care of the sovereign belongeth the making of good laws. But what is good law, I mean not a just law; for no law can be unjust."[50.] Within the Hobbessian framework, no law can be unjust, since the law is logically prior to justice and justice means obeying the law. This interpretation of Hobbes' account of justice described above has not gone unchallenged. A.L. Allen and M. H. Morales, for instance, have wondered if the third law nature in the *Leviathan*, which defined justice as the "performance of covenant," does not imply that the notion of justice could apply in the state of nature. "The ideal of justice reflected in Hobbes' third law …makes no reference to a sovereign command. So it appears that even in the state of nature individuals could create rights and obligations through private covenants, which define a kind of natural justice or injustice."[51] In the same vein, a statement in chapter fifteen of *Leviathan*, which says "covenant entered into by fear in the condition of mere nature are obligatory," apparently contradicts Hobbes claim that the notions of justice and injustice are inapplicable in the state of nature.[52]

If we were to set aside queries above, we may conclude that Hobbes' theory of justice places a heavy emphasis on the role of coercive power as precondition for the attainment of justice. This observation is particularly significant within the context of this work because one of the objections that have been raised against cosmopolitan justice is that it is a chimera because there is no world government or a sovereign

power at the global level to enforce the rules of justice. This view will be critically examined in the fourth chapter of this thesis. For now we shall continue with our survey of the accounts of justice in the history of political philosophy.

Hume on justice

Hume's theory of justice can be gleaned from two primary sources, book three of the *Treatise of Human Nature* and the *Enquiry Concerning the Principle of Morals.* In these works, Hume set out, among other things, to explain the origin and the nature of justice. He began by debunking two popular conceptions of justice: the idea that the principle of justice derives from laws and so are independent of utility and interest, and the idea that they are founded on a social contract, which may render them artificial but not a matter of sentiment.[53]

As far as Hume is concerned, both positions are untenable. The principle of justice, he argues, are not founded on natural laws nor are they a product of social contract; rather, they are founded on generally accepted conventions aimed at promoting peace and order in society. Hume's account of justice is situated within his larger theory of moral sentiments. Here it may be needful to provide a brief account of his notion of moral sentiment before discussing his theory of justice. Hume's idea of moral sentiment sharply contrasts with conventional ethical theories which emphasise the role of reason and rules. From the standpoint of such ethical theories, it is conformity or non-conformity with the rules of the right that determines the moral rightness or wrongness of human conduct. Hume disagrees with this position by rejecting moral rules. He provides an alternative ethical framework which emphasises sentiments and feelings. Within that framework, virtue is construed "as whatever mental action or quality gives a spectator the pleasing sentiments of approbation and vice, the contrary".[54] Thus sentiments, not reason remain the authentic ground for determining good and evil. Thus, to approve an action as virtuous is to have a particular type of feeling towards such an action." We do not infer a character to be virtuous because it pleases but in feeling that it pleases after a particular manner, we in effect feel that it is virtuous.[55] when a person disapproves of an action on the other hand, is to express the experience of an unpleasant feeling about the action in question.

With this brief account of Hume's notion of moral sentiments, we may now delve into a more detailed examination of his account of justice.Hume's writing contains different uses of the term 'justice.' At the beginning of the *Treatise*, he creates the impression that a person, not actions is the object of moral evaluation, thus creating the impression that justice is a virtue which persons possess. His subsequent discussion, however, modifies this conception of justice to a set of principles regulating human interactions within society. The virtue of justice, therefore, consists in acting in conformity with these principles. In explicating Hume's account of justice, our discussion would be organised around two major issues, which are the questions of the nature and the origin of justice.

Hume answers the question of the nature of justice by arguing that justice is an artificial virtue. In order to set this statement in context, there is need to clarify the distinction Hume made regarding artificial and natural virtues. A natural virtue is characterised by two important features, and these are :

(a.) Natural virtues are implanted instincts. What this means is that these virtues are motivated by behavioural dispositions which are native to human beings. Specifically we are motivated by natural dispositions to perform certain actions under certain circumstances. For example, the predisposition of kindness involves the disposition to feed a hungry child.

(b.) The display of natural virtues invariably results in some good. For example when kindness leads us to feed a child, this action results in some good - the hunger of the child is abated.

Artificial virtues differ from natural virtues with respect to the following features listed above:

a.) Artificial virtues are not implanted instincts. Rather they involve dispositions to form a general scheme of convention, (a product of human creation)

b.) The manifestation of artificial virtues does not invariably result in some good. It is not the case that every adherence to this general convention benefits either the individual or the public. Justice, for example, may require that we to repay our debts to

our enemy or to someone who will deploy such funds to a malicious end contrary to the public good. It is the entire system of justice that promotes the public good and not the particular observance of the general scheme.[56]

From the discussion above, one could see why Hume regarded justice as an artificial virtue in contrast to benevolence, which he held as the "archetypal natural virtue."[57] However, it will be expedient to shed more light on why Hume classifies justice as an artificial virtue. According to him, when we label an action as virtuous, it is certainly because of the motives behind such actions. As Hume puts it "all actions derive their merit from virtuous motives."[58] This motive, Hume clarifies further, cannot be the desire to be virtuous since this motive precedes virtuous act. To say, for instance, that the motive we approve of is always the desire to do that action that we approve of is to be involved in an obvious vicious circle.[59] In evaluating human action therefore, we ought to separate the natural human motives that impel such actions.

Having made the point that it is virtuous motives that confer virtue on an action, Hume argues that unlike natural virtues which are motivated by natural sympathies, specific just acts are not impelled by such natural sympathies. Instead, the motive that drives just acts is the need to preserve a general system of justice, a form of reciprocal behaviour in conformity to rules. This is what Hume means when he designates justice as an artificial virtue. "Artificiality" of justice derives from the fact that the acts of justice do not flow directly from natural motives but from some convention or unwritten agreement by individuals who lives in society. While Hume sees justice as an artificial virtue, he nonetheless underscores the fact that it is a virtue that is vital to all societies. As he puts:

> Though the rules of justice are *artificial* they are not *arbitrary*. Nor is the expression improper to call them Law of Nature, if by natural we understand what is common to any species, or even if we continue to mean what is inseparable from the species.[60]

On the origin of justice

In keeping with the empiricism, which informed his position on a broad range of issues, Hume in the *Treatise* undertook to show that while the rules of justice can be

demonstrated to be rational constructs they are nevertheless the products of social experience.In Hume's view, the original motivation for the establishment of justice and adherence to its rules is traceable to the desire for the material prosperity and personal security which can only be found in the context of society. In a passage that bears some similarity with Hobbes' depiction of the state of nature, Hume affirms man's need for food, clothing and housing and the difficulty of obtaining such necessities. Giving the physical limitation of man, left to himself, he lacks the power and the ability to satisfy his needs and protect himself against natural enemies. Society, however, provides a remedy for this inconvenience by a conjunction of forces, provision of employment and mutual succor.[61.]

Unfortunately, says Hume, there are certain elements of human nature such as "selfishness" and "limited generosity". By limited generosity, Hume meant that our generosity is usually confined to our family members and friends). The manifestation of the combination of this natural selfishness and limited generosity is that each man tends to grab what he can for himself, family and friends, thereby threatening the peace and stability of society. Men however, found out soon that such behaviour is self-defeating, for in undermining the stability of society his desire to secure prosperity for himself, friends and family also comes under jeopardy. Thus, men ultimately saw the need to observe a set of rules guiding the distribution and the transference of goods as well as the keeping of promises. It is this set of rules that, for Hume, constitute the principles of justice. The rules of justice, therefore, arose from the need to protect property. According to Hume:

> When they (people) observed that the principal disturbance in society arise from those goods, which we call external and from their looseness and easy transition from one person to another they must seek a remedy, by putting these goods, as far a possible, on the same footing with the fixed advantages of the mind and the body. This can be done in no other manner than by convention entered into by all members of the society to bestow stability on the possession of those external goods, and leave everyone in peaceable enjoyment of what he may acquire by fortune or industry. By this means everyone knows what they safely possess; and the passions are restrained in their partial and contradictory motions.[62]

According to Hume, by entering into a convention, humans instituted justice, where justice is defined as conventions guiding the distribution of materials good in society. By implication of Hume's assertions here, the virtue of justice would consist in respecting these conventions. In essence, Justice is merely a product of conventions that provides practical utility to society by ensuring the "fairness" of property relations and ultimately the stability of society.

Hume's account of justice like everything else he had written have come under severe criticism. Two of such criticisms will suffice here. First, Hume's general premise that virtues do not exist apart from feelings of approval and disapproval has been challenged on the grounds that feelings alone are not sufficient to account for a sense of duty and obligation. "There is rationalistic element and a feeling element involved in the nature of justice or any other virtue. It is always a mistake to interpret virtues as belonging wholly to one or the other."

[63] Second, Hampshire-Monk has taken issues with Hume's conception of justice as rules guiding distribution of material goods in society. For him, this is a rather narrow and unsatisfactory account of justice since that account has virtually nothing to say about "legal procedures and is dismissive of the threat posed by the possibility of personal violence."[64]

How Hume might respond to these objection is unclear, but whether conceived as broad or narrow what is certain about Hume's account of justice is that for him, justice is an expedient set of rules derived from a set of conventions on property relations, whose utility springs from its contribution to the maintenance of order and stability in society.

The discussion of Hume's conception of justice brings to an end our focus on the idea of justice as conceived in the modern philosophy. For the way justice is conceived in the contemporary era, we shall employ Rawls *A Theory of Justice* as our guide or case study.

Rawls on justice

Rawls has been described as "arguably the most important political philosopher of the twentieth century." [65] In 1971 he published his Magnus opus, *A Theory of Justice* where he defended the thesis that justice relates to fairness of background conditions.[66] In the said book, Rawls saw the task of any socio-political arrangements as the protection and enhancement of individual liberty and welfare. Thus Rawls developed a reliable procedure for constructing the principles of justice that ought to guide any just society whose aim is to promote the two-fold goals of individual liberty and well-being.

As Rawls conceives it, the problem of justice arises "when a society evaluates the institutions and practices under it with an eye towards balancing the legitimate competing interests and conflicting claims which are pressed by the members of the society".[67] Clearly, Rawls believe that such competing claims and interests are justifiably resolved if the basic structure, that is, "the way in which major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation" is just.[68] Thus, Rawls holds that justice is the fairness of political, social and economic institutions of society

Rawls' approach to justice is firmly set in the social contract tradition of Hobbes, Rousseau and Kant. His conception of justice generalises and carries that tradition to a higher level of abstraction.[69] This strategy involves abstracting individuals from their particular social and economic circumstances and reconstructing the rules, principles and institutions they would adopt in order to maximize their interest in the just society.[70] There are two major elements to Rawls' theory of justice. The first part outlines the conditions and constraints under which rational contractees deliberate with the aim of arriving at principles of justice. The second part deals with the actual content of these principles. Aside the adoption of the contractarian strategy, another feature that is crucial to Rawls' methodology is the idea of reflective equilibrium. This implies that inferences deduced from the process of moral reasoning must be constantly checked against our intuitively grounded notions, and where necessary, we may adjust those inferences in order for them to be consistent with our fundamental moral intuition. By this criterion any philosophical or moral reasoning that is irreconcilably at odds with our fundamental moral beliefs is to be discarded altogether. To be sure, Rawls was

deeply convinced that his theory of justice was more in accord with our moral sensibilities compared to other perspectives. In his words:

> This is pretty much I shall do, since in presenting justice as fairness, I shall compare its principles and argument with a few other familiar views. In the light of these remarks justice as fairness can be understood as saying that the two principles would be chosen in the original position in preference to other traditional concept of justice …and these principles give a better match with our considered judgment on reflection than those recognized alternatives. [71]

As indicated above, Rawls appealed to an hypothetical contract process to demonstrate how the principles of justice would be chosen in what he called the original position by self-interested rational contractors. Before turning to Rawls' description of the original position, it will be helpful to briefly highlight some of the basic assumptions that are relevant to understanding his theory of justice.

a) That human cooperation is both possible and necessary. In fact, Rawls defines society as "mutual venture for mutual advantage". [72]

b) That all contractees in the original position value certain primary goods. These primary goods are rights, liberties, power and opportunities, income and wealth. The primary goods are necessary for the attainment of any individual good that any person may desire. [73]

c.) That the contractees are mutually self-disinterested, rational agent who will seek to maximize their share of the primary goods. [74]

d.) That the parties to the contract are capable of a sense of justice, and that this fact is public knowledge among them. [75]

with this background information on Rawls major assumptions on justice we now shall examine the original position

The original position

The ‘original position’ refers to a hypothetical choice situation, much like the state of nature in the traditional social contract theory. The basic difference is that while the traditional social contract theory is about setting up government or civil society, the original position focuses on choosing the principles of distributive justice. The parties in the original position or what Rawls also describes as the appropriate initial status quo, are saddled with two tasks: one, to choose the principles that would govern the basic structure of society, and two, to identify principles which are to apply to personal relations. Parties in the original position are treated as equals. In real life situation, though men are regarded as equals in a formal sense, their actual disparity in power and influence is seen in the phenomenon of unfair bargaining advantages, coercion, the use of threat or force, public opinion manipulation, etc. To guarantee equality and impartiality in the process of choosing the principles of justice, Rawls introduces two major constraints. These are “the formal constraint of the concept of the right and the veil of ignorance.

The formal constraint of the concept of the right imposes five restrictions on the hypothetical choice situation:

First, the principles are to be general, in the sense that they should express general properties and relations. Second, the principles are to be universal in their application. In other words, they should apply to all moral agents. Third, they are to be recognized publicly. The fourth and the fifth restrictions combined, in effect, demands that the principles be the final arbiter for resolving conflict in claims of moral agents.[76]

Perhaps of greater significance in terms of constraints on the choice situation, in the original position, is the veil of ignorance. Parties in the original position are to be placed under the veil of ignorance. This means that at initial status quo, the contractees do not know their place in the society. The veil of ignorance excludes knowledge of one’s class, position or social status, one’s stock of natural assets and liabilities, one’s fortune, one’s intelligence or physical strength and even the generation in which one is likely to exist.[77] The veil of ignorance is a device Rawls came up with to guarantee impartiality and to prevent the contract makers from arguing from selfish, rather than general ground.In spite of the veil of ignorance, Rawls permitted the contractees to

have some general knowledge of economic theory and human psychology. They are also aware that their society is subject to the circumstances of justice.[78]

At this juncture the question may be asked if the parties to the contract do not have a conception of the good how they could choose the principles of justice? Rawls answer is that the parties do have sense of a rational life-plan but that they do not know the details. However, as rational maximizers, it is expected that the contractees will seek to maximize their share of the primary goods, which then become the basis for pursuing their conception of the good in the real world when the veil is lifted.

Choosing the principles of justice

Having set the stage by describing the conditions and guiding principles of the original position, Rawls proceeded to show why his principles of justice would be adopted. He did discuss a number of alternative conception of justice as possible candidates from which the contractees in the original position could choose, including utilitarianism and moral egoism. Rawls ultimately discarded these rival principles, and argued that the contractees will choose justice as fairness over the other alternatives. But why would they choose Rawls' two principles over the others? Rawls contended that the 'Maximin rule' would predispose the contract makers to choosing the principles of justice as fairness. The Maximin principle, explains Rawls, tells us to rank alternatives by the worst possible outcomes, with the aim of adopting the worst outcome which is superior to all alternative worst possible outcomes.[79] Put differently, this means choosing the least worst possible outcome.Thus given that the parties are self-interested, rational agent, operating from behind the veil of ignorance, they would generally adopt the principle of minimizing their losses. Again, given that the parties to the contract do not know what their social positions would be, or what their natural asset will be, it is only rational that they adopt the conservative attitude expressed in the Maximin rule. This is what leads the contractees to unanimously choose Rawls principles of justice, which are the liberty and difference principles. These principles are are stated below.

1.) each person is to have an equal right to the most extensive total system of basic liberties compatible with a similar system of liberty for all.

2.) Social and economic inequalities are to be arranged so that they are (a) to the greatest benefit of the least advantaged and (b) attached to the offices and positions open to all under conditions of fair equality of opportunity.[80]

The principles, holds Rawls, are to be arranged in lexical order with rule 1, which is the liberty principle taking priority over rule 2, the difference principle. The implication of the above lexical arrangement is that the first principle must be satisfied before we can move to the second.

Interestingly, while Rule 1, the liberty principle is technically prior to Rule 2, the difference principle, it is on the second rule that Rawls expends a great deal of energy, and it is also the one that has generated the greatest amount of controversy. Before embarking on a short evaluation of Rawls, a portion of Rawls' theory of justice that often receives scant attention will be briefly discussed.

Principles of personal justice

For Rawls the contractees in the original position were to perform two tasks; one, to choose the principles of justice for the basic structure, two, to choose the principles that will regulate personal interactions. Some scholars including G. A. Cohen, have criticised Rawls' principles on the ground that he narrowly focuses on the basic structure while ignoring personal relations.[81] However, Cohen is mistaken here because Rawls did recognise principles of justice that apply to individuals. It is actually true, however that since the publication of *A Theory of Justice*, Rawls has had little or nothing to say about this aspect of his theory.[82]

In the sixth chapter of *A Theory of Justice*, Rawls identifies the principles and obligations chosen in the original positions, which pertain to individuals. These principles or rules spell out duties and obligations that individuals owe one another. It is instructive, that Rawls himself declares "that the conception of justice as fairness is incomplete until these principles are accounted for."[83] So what are the principles and obligations that should guide personal relations? First, we have the duty to uphold justice. This imposes on us two responsibilities(1) we are to support and assist existing just institutions; and, (2) where they are non-existent, we are to assist in the

establishment of just institutions, at least when this can be done with little cost to ourselves. Another duty that applies to individuals, according to Rawls, is that of mutual respect, which requires that we "show a person the respect which is due to him as a moral being, that is a being with a sense of justice and a conception of the good.[84] Finally Rawls speaks about the duty of mutual aid which demands that as citizens we have "a duty of helping another when one is in need or jeopardy provided that one can do so without excessive risk or loss to oneself." [85]

Having outlined Rawls' theory of justice, which includes the principles of natural duties and obligations, this discussion on Rawls' account of justice, would be brought to a close with a brief evaluation. Rawls' approach no doubt has produced a rigorous system of pure procedural justice, which implies that if the principles are unanimously adopted, whatever distribution that arises therefrom should be deemed as just. Beyond the issue of building a rigorous and attractive theory of justice, the egalitarian spirit behind the Rawlsian principles ought to be commended. It is to Rawls' credit that concern for the poor or the least advantaged is one norm that could be regarded as cultural universal in the western world. That he incorporates this norm into his account of justice strengthens the plausibility of his position.

Interestingly, in spite of a general concern for the least advantaged, many disagree with Rawls' account of justice, for different reasons. Some critics for instance have accused Rawls of specifying the operative conditions in the original position in order to stack the deck in favour of his preferred principles of justice. To buttress this point, they take issues with the difference principle which according to Rawls would be unanimously adopted by rational, self-interested people in the original position. For them, Rawls' position here is not tenable, for it is quite possible that some of the contract makers would apply the maximax principle-rather than maximin principle- by taking some risks, on the hope of getting a larger share of social goods.[86]

Another criticism that has been brought against Rawls' theory of justice is that his account of the least-advantaged fails to discriminate between those who are disadvantaged by forces beyond their control and those are that disadvantaged by choice . Richard Arneson illustrates this with the life choice of an individual named

Smith who graduated from law school, had the opportunity to choose from an assortment of very high paying jobs, but settled for a poor paying one by becoming a bohemian artist. Arneson claims that by Rawls' theory Smith falls into the bracket of least advantaged even though he became so by choice. For Arneson, what this illustration proves is that Rawls' theory is flawed.[87.]

The final set of criticisms, against Rawls which we would consider are from cosmopolitans who accused Rawls of failing to extend his theory of justice to the global arena, even when it is apparently applicable at that level.[88] In his book *One World*, Peter Singer for instance laments Rawls' obvious neglect of the issue of global justice.[89] Beitz and Pogge for their part, have gone ahead to develop accounts of how and why Rawls' theory of justice could be extended beyond the domestic setting of the nation state to the global stage. Beitz refutes the assumption held by Rawls and the communitarians that the countries of the world are economically and culturally self-contained entities, more like Liebniz's windowless monads. Instead, he argues that the degree of economic and cultural links between individuals in various nations across the world has effectively transformed the "global" society into a system of mutual cooperation."[90] By implication, the idea of the original position can apply at the global level, just as Rawls' two principles of justice.

Political philosophy and domestic justice

The preceding discussion naturally leads to the concluding section of this chapter. Here I intend to highlight the state-centric or 'domestic- oriented" nature of the analyses of the concept of justice in traditional political philosophy, and how a divergent theoretical disposition founded on an awareness of global complexity is challenging that bias. The understanding and the conceptualization of justice in political philosophy from its inception in the days of Plato and Aristotle, until only very recently, have been intimately connected with territorially bounded communities. Plato and Aristotle in particular were concerned with expounding the nature of justice in the small-scale societies of their days. Perhaps Plato and Aristotle are not to be blamed for limiting the idea of justice to the relations within Greek city states; the argument could be made that given the age they lived in, these philosophical juggernauts could not have envisaged

the large scale communities that exist today and the massive interactions among them. It is instructive however, that the Stoics in the Hellenistic period developed the idea of justice which applies to all humanity irrespective of ethnic or political affiliation. For the Stoics all men are connected by rationality and thus have sufficient basis to subscribe to a set of common norms of justice. Cicero makes the point elegantly when he says:

> ...the first common possession of human beings and God is reason. But those who have reason in common must also have right reason in common. And since right reason is law, we must believe that people have law also in common with the Gods. Further those who share law must also share justice; those who share these are to be regarded as members of the same commonwealth.[91]

While the Stoic spoke of the brotherhood of humanity and held a cosmopolitan idea of justice, their position was relegated to the margins of political thought. With the exception of Kant who also thought along cosmopolitan lines, the great majority of works that dealt with the issue of justice almost always operated with the assumption that justice is territorially bounded to the nation state. Dawn Carey confirms that the 'bounded idea of justice" has been prominent in western thought.

> The evolution of thought regarding justice as it applies to political communities has been a fundamental preoccupation of modern political philosophy for centuries. The background analysis and reflection mainly derived from earlier efforts to conceive justice in relation to specific communities. This tradition in western political philosophy can be traced back to ancient Athens and the conception put forth by Plato and Aristotle, carried forward into contemporary era, most notably by John Rawls.[92]

Thus even Rawls whose ideas are generally regarded as the starting point for understanding justice in the contemporary era is caught in the web of what Jan Scholte calls "Methodological territorialism". Methodological territorialism, according to him, is the practice of understanding and investigating social relations through the lens of territorial geography.[93]

Methodological territorialism in Political Philosophy, or the traditional bias that confines the issue of justice to relations within states, has been reinforced and supported by two main traditions of thought in international relations, namely realism and natural law theory. Realist like Thucydides and Hobbes claim that the international realm is characterized by violent anarchy "therefore, "moral norms do not hold between the states even when they hold within states.[94] The natural law perspective which is given one of its finest articulation in the writings of Grotius asserts that the international system is a society of societies. On this reading, states do owe themselves the duty of non-interference. The implication of this is that the notion of cosmopolitan justice does not arise. On the whole, then , whether we focus on the understanding of justice in conventional political philosophy or international political theory, the idea of "bounded justice" reigns supreme. Justice in the conventional understanding is nothing but domestic justice or put differently, "justice within (national) borders".

Within the last few decades, however, the preeminence and the analytical accuracy of the state-centric understanding of justice, the dominant perspective in political theory is increasingly called into question. Critics of the exclusive focus of traditional political philosophy on domestic justice argue that such a perspective is increasingly becoming outmoded in the light of the deteritorialisation of social relations that is being intensified by global forces and processes. [95] Christiano and Christman identify below the global processes that are beginning to lead some political theorists to raise the issue of the appropriateness of the tendency that confines justice relations to those within the borders of nation-states.

> The modern era has called the prominence of the state in political theory into question because of the myriad of relations that citizens of one society hold with those of other societies. the massive explosion of international trade, finance, communication, transportation and migration of peoples and increasing awareness of public evils such as air pollution and global warming coupled with the rise of international institutions that have significant power that tie persons in all part of the globe to one another.[96]

It does not take much stretch of imagination to realize that for any conception of justice to take the above development into account, it will have to become sensitive to global issues.

Around the issues of global justice has emerged the cosmopolitan movement, a group of thinkers bound together by their conviction that the proper scope of justice is global. Prominent within this movement are philosophers such as a Peter Singer, Thomas Pogge, Charles Bietz and Simon Caney. These in their different ways have continued to challenge the bias in traditional political theory towards domestic justice as well as provided an alternative account of the nature of justice in an increasing interconnecting world.

Conclusion

This chapter have sought to provide a holistic understanding of the nature and the meaning of justice. It stated that justice etymologically refers to "giving each man what is his due". An attempt was also made to clarify the important distinctions between procedural and substantive justice, and the differences between Distributive, Commutative, and Retributive justice, on the other hand. Beyond these basic distinctions, this chapter also examined in some detail some selected philosophical account of justice from Plato to Rawls. From all these perspectives on justice, and came to the conclusion that one theme that runs through all these accounts of justice is the emphasis that each of them places on justice as a territorially bounded norm. The chapter also highlighted the fact that the notion of bounded justice, is increasingly being challenged by cosmopolitan philosophers who argue for the need to add the global dimension to our conventional understanding of justice. The next chapter will focus on the meaning of cosmopolitanism and the variety of perspectives on cosmopolitan justice.

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CHAPTER TWO

PERSPECTIVES ON COSMOPOLITAN JUSTICE

Introduction

In the preceding chapter, an attempt was made to clarify the idea of justice, as it is understood in mainstream scholarship. Attention was also called to the cosmopolitan challenge to the entrenched understanding of justice as a territorially bounded principle. The concern of this second chapter will be to illuminate the concept of cosmopolitanism, as well as provide a brief overview of the different accounts of cosmopolitan justice. More specifically, we shall examine the Utilitarian, the Deontological and the Rawlsian-based accounts of cosmopolitan justice. In order to systematically accomplish this task, this chapter has been structured into two broad sections. In the first, we shall examine the meaning of cosmopolitanism, highlight some of the basic distinctions that are crucial to the understanding of the variety of cosmopolitanism and discuss, in some depths, the basic principles of cosmopolitanism. In the second section, we shall explore the various accounts of cosmopolitan justice.

On the meaning of cosmopolitanism

The term "Cosmopolitanism,'' which is derived from the Greek word "Kosmopolites'' (literally, citizen of the world), is a short-hand for quite a wide array of important views on moral and socio-political philosophy.[1] The central assumption shared by all cosmopolitan doctrines is that "all human, regardless of the political affiliation, do (or at least, can) belong to a single community, and that this community should be cultivated."[2] According to Gustavo Ribeiro, "cosmopolitanism epitomizes the need for social agents to conceive of a political and cultural entity larger than their homeland, that will encompass all human beings on a global scale."[3] In contrast to nationalists, who tended to define the boundaries of community as one that is territorially bounded and co-extensive with the communities of co-nationals, cosmopolitanism defines

community in a more expansive manner, extending its boundaries to encompass all human beings. In the words of Martha Nussbaum, a leading figure in the cosmopolitan movement, "the cosmopolitan is the person whose primary allegiance is to the community of human beings in the entire world."[4] Cosmopolitanism, therefore, rejects the narrow provinciality of parochial loyalties and attachments that necessarily conceive of community in restrictive terms. Stevenson elegantly captures the essence of the cosmopolitan spirit when he says:

> Cosmopolitanism is a way of viewing the world that among other things dispenses with national exclusivity, dichotomous forms of gendered thinking and racial thinking and a rigid separation between nature and culture. Such a sensibility would be opened to the new spaces of political and ethical engagement and seeks to appreciate the ways in which humanity is mixed into intercultural ways of life. Arguably, cosmopolitanism is concerned with the transgression of boundaries and markers and the development of all inclusive, cultural democracy and citizenship.[5]

Implicit in Stevenson's description given above is that cosmopolitanism involves a positive attitude towards cultural difference. It incorporates a disposition that seeks to construct broad allegiances across parochial identities, such as ethnicity, nationality, gender, and so on, to encompass the entire community of humanity in some form of universalist solidarity.[6] In one word, cosmopolitanism defines the morally significant community as one that is broad enough to include the whole of humanity. Any attempt to define such a community in a less inclusive form is regarded by the cosmopolitan as morally reprehensible.

Cosmopolitans do not deny the importance of the local attachments and affinities that we have to our families, ethnic groups or nations. However, they argue that it would be morally arbitrary to privilege the interests of those to whom we are so connected to the exclusion of the interest of the rest of humanity. Beitz hints at this point when he says that moral cosmopolitanism "applies to the world the maxim that answers to questions about what we should do, or what institutions we should establish, should be based on our impartial consideration of the claims of each person who would be affected by our choices."[7] Thus, at the very core of cosmopolitanism lies the key belief that "every

person has global stature as the ultimate unit of moral concern and is therefore entitled to equal respect and consideration no matter what her status or other affiliations happen to be."[8] With these prefatory remarks on the meaning of cosmopolitanism, our understanding of the concept could be deepened by identifying and discussing some crucial distinctions which separate one form of cosmopolitanism from another.

Basic distinctions

Cosmopolitanism covers a complex variety of positions whose core is the belief that "all human beings share essential features that unite or should unite them in a global order that transcends national borders and warrants their designations as "citizens of the world."[9] Beyond this core, we face the risk of lumping the different shades of cosmopolitanism into one undifferentiated whole. The distinctions discussed below provide the necessary analytical resources for avoiding such a mistake. A perusal of the literature on cosmopolitanism throws up, at least, three major distinctions: between moral and institutional cosmopolitanism, weak and strong cosmopolitanism, and, in the exact coinage of Sheffler, between "cosmopolitanism about culture" and "cosmopolitanism about justice."[10] We would examine these distinctions in turns.

Moral versus institutional cosmopolitanism

Moral cosmopolitanism could be described as the logical extension of the proposition that all human beings ought to be accorded equal respect and consideration, regardless of whether they are compatriots or aliens. According to moral cosmopolitanism, the individual human being is regarded as the ultimate unit of moral concern. By implication, this position requires that we take into cognizance the interest of everyone who may be affected by our actions. From this perspective, it may be unethical to ignore the interest of any individual for whom our action has consequences, even if they are distant foreigners. In practice, moral cosmopolitanism demands that we keep the interest of all humanity in view as we decide our courses of action.

One frequent objection, which, however, rests on an incorrect assumption, is the allegation that moral cosmopolitanism requires a world state or government. In other words, moral cosmopolitanism necessarily commits one to institutional

cosmopolitanism (used interchangeably in the literature with "Legal" and "Political" cosmopolitanism). Charles Beitz, for Instance, flatly denies the assumption that there is a necessary connection between moral cosmopolitanism and institutional cosmopolitanism:

> Cosmopolitanism about ethics does not necessarily imply cosmopolitanism about institutions. It is consistent with moral cosmopolitanism to hold that something like the state system is better than a world government – perhaps because human interests are best served in a world partitioned into separate societies whose members recognize special responsibilities for one another's well being.[11]

If moral cosmopolitanism does not entail institutional cosmopolitanism, how is the latter distinguished from the former? Institutional cosmopolitanism holds that the present global political order, which is premised on the system of sovereign states, needs to be superseded and replaced by a more global arrangement where states and other political units are subject to the authority of some form of supranational agency.[12] Such a supranational authority is deemed necessary because as far as the advocates of institutional cosmopolitanism are concerned, "the current institutions – the United Nations, human rights regime, for example, are inadequate to provide human beings with the effective means to act and be treated as world citizens."[3] Put differently, the argument of the advocates of the institutional cosmopolitanism is that, unless there is an effective system of enforcement at the global level, the norms, principles and legal rules derived from moral cosmopolitanism would be largely ignored.

From the above distinction between moral and institutional cosmopolitanism, it should be clear that the two forms of cosmopolitanism are not mutually exclusive. In other words, it is quite possible to be a moral as well as an institutional cosmopolitan. Conversely, we should note that commitment to moral cosmopolitanism does not logically entail commitment to a centralized world government. In fact, some moral cosmopolitans argue that the institution of a world government would be antithetical to human freedom and global stability. For instance, Immanuel Kant, a foremost moral cosmopolitan, opined that a world government "would either be a global despotism or else rule over a fragile empire torn by frequent civil strife, as various regions and

people tried to gain their political freedom and autonomy."[14] Whether a world government is needed to enforce moral cosmopolitanism or not is a matter of serious debate; but, examining the debate is beyond the scope of this section. However, what is clear from our discussion so far is that moral cosmopolitanism differs from institutional cosmopolitanism.

Before we move to the next distinction, it is important to underscore the fact that moral cosmopolitanism is not a monolithic position. Pogge had famously differentiated between interactional and institutional forms of moral cosmopolitanism. Interactional moral cosmopolitanism postulates that the fundamental principles of cosmopolitanism apply to, and ought to govern, all interactions between individual human beings. From this point of view, "ethical principles are first order rules in that they apply directly to the conduct of persons and groups."[15] Institutional moral cosmopolitanism, on the other hand, is concerned with the postulates of principles or standards of justice "for assessing the ground rule and practices that regulate human interaction."[16] These principles, according to Pogge, are second order: since they apply indirectly to individuals, they could be morally responsible for their involvement in unjust institutional schemes. Pogge's explanation below further clarifies the distinction between the interactional and institutional approaches to moral cosmopolitanism.

> Interactional cosmopolitanism assigns direct responsibility for the fulfillment of human rights to other individuals and collective agents whereas institutional cosmopolitanism assigns such responsibility to institutional schemes. On the latter view, the responsibility of persons is then direct – a shared responsibility for the justice of any practices one helps to impose: one ought not to cooperate in the imposition of a coercive institutional order that avoidably leaves human rights unfulfilled without making reasonable efforts to protect the victims and promote institutional reforms[17].

Extreme and moderate cosmopolitanism

A second important distinction in the literature is that which concerns extreme and moderate cosmopolitanism. This terminology was introduced by Sheffler.[18] Extreme

cosmopolitanism locates the ground and the justificatory basis for all values in cosmopolitanism. Accordingly, "all other moral commitment must be justified by reference to cosmopolitan principles and goals."[19] Special concern between conational, for example, cannot be justified independently of cosmopolitanism. As Tan further suggests, special commitment to compatriots, from the perspective of extreme cosmopolitanism, is either justified as a "useful division of moral labor for realizing cosmopolitan goals or that this special concern is derived from certain cosmopolitan commitments (e.g. fair play and reciprocity).[20] However, one justifies the special concern or commitment to compatriot, for extreme cosmopolitan, the justification must ultimately be founded on cosmopolitan principles. In essence, special concern for fellow nationals cannot command any moral value independent of cosmopolitan principles. Moderate cosmopolitanism, on the other hand, grants that there could be plurality of the sources and the grounds for the justification of values. It concedes that there are non-cosmopolitan goals and principles with inherent moral worth. Thus, moderate cosmopolitans do not insist that our special obligation be justified by reference to cosmopolitan goals.

The distinction between extreme and moderate cosmopolitanism comes out more forcefully if we consider the question whether there are any forms of justice which apply within particular societies and not global community in general. Extreme cosmopolitans deny that there are such norms and rigidly hold the position that all norms of justice apply to all men. Moderate cosmopolitanism, however, agrees that special obligation does exist, that there are some things we owe compatriots, which are not owed as an obligation of justice to foreigners.

Weak and strong cosmopolitanism

The third distinction, which must be brought to the fore, is the difference between weak and strong cosmopolitanism. Weak cosmopolitanism conceives of the requirements of justice that are applicable globally as those that are "necessary for human beings to live minimally adequate lives."[21] Once this is achieved, the weak cosmopolitan takes it that the obligation of justice towards others is discharged. In contrast, strong cosmopolitanism is committed to a more demanding form of global distributive

equality which goes beyond guaranteeing minimally decent lives for all human comprehensive goal of eliminating inequality between all humans. Of course, this does not imply that strong cosmopolitans are intent on wiping out all inequality between individuals across the world. What defines strong cosmopolitanism is its commitment to distributive equality that goes beyond what is required for minimally decent existence.

"**Cosmopolitanism about justice" and "cosmopolitanism about culture"**

Again, we owe this distinction to Samuel Sheffler. According to him, cosmopolitanism about culture denies, contrary to the view of communitarians like Miller, and multiculturalists like Kylimcka, that membership of a community is necessarily constitutive of the individual's social identity and well-being. Sheffler's characterization of cosmopolitanism about culture bears being quoted at length.

> Cosmopolitanism about culture and the self is opposed to any suggestion that individual's well being or their identity or capacity for effective human agency normally depends on their membership in a determinate cultural group whose boundaries are reasonably clear and whose stability and cohesion are reasonably secure. Cosmopolitanism sees these ideas as involving a distorted understanding and unduly restrictive conception of individual identity, agency, and well being. Cultures they maintain are always in flux. Change is the normal condition for a living culture.[22]

"Cosmopolitanism about justice" essentially concerns the question of the scope of justice. Communitarians argue that the application of the principle of justice is limited to bounded communities, such as nation states. Cosmopolitanism about justice rejects the communitarian's confinement of the norms of justice to bounded communities. For them, the norms of justice apply to all members of the human community. Sheffler spells out the "cosmopolitan about justice" in the following assertion:

> "Cosmopolitanism about justice" is opposed to any view that posits principled restrictions on the scope of an adequate conception justice. In other words, it opposes any view which holds as a matter of principle that norms of justice apply primarily within bounded groups, comprising a subset of the global population.[23]

From the above descriptions, it is clear that while "cosmopolitanism about culture" pitches the cosmopolitans against the communitarians over the nature of the individual's social identity, "cosmopolitanism about justice" pits the former against the latter over the scope of justice. Or, as Tan elegantly puts it, "Cosmopolitanism about culture is a thesis about the irrelevance of the membership in particular cultures for personal identity formation and individual autonomy, whereas cosmopolitanism about justice is a thesis about the irrelevance of boundaries to the scope of justice, considered at the fundamental level."[24]

Having laid out the meaning and the basic distinctions in the literature on cosmopolitanism, it is now time to now explore the various accounts of cosmopolitan justice. Before proceeding to that task, however, it is important to briefly indicate the position and the focus of this thesis in the light of the distinctions outlined above.The position that underpins this thesis is moral cosmopolitanism. It is evident that certain supranational institutions and structures would facilitate the realization of the goals of moral cosmopolitanism. As an ethicists, the focus is on the principles that ought to govern cross-border human interactions, while leaving the task of institutional design to political scientists. The concern here is not so much about cosmopolitanism about culture; rather, the main focus of this thesis, as the title clearly indicates, is cosmopolitanism about justice. Of course, in pursuing our case, it would be shown that both culture and national boundaries are irrelevant to the consideration of justice at some fundamental level. While the present study does not support extreme cosmopolitanism or deny the moral importance of patriotic concerns and special ties, it asserts with Pogge that while special relations may increase our obligation to our compatriots, it does not by any means decrease the obligation that we owe humanity.[25]

The basic principles of cosmopolitanism

Discussions of the basic principles of cosmopolitanism often draw heavily from the writings of Pogge. This thesis also follows his lead. In his earlier writings, Pogge generally outlines three major principles of cosmopolitanism, namely, normative individualism, universality and generality.[26] Recently, however, he added a fourth

principle, that is, "all- inclusiveness." In what follows the principles are briefly discussed.[27]

A.) *Normative individualism* simply implies that the ultimate unit of moral concern are human beings or persons, and not family lines, tribes, ethnic, religious or even national communities.[28] The latter certainly may be units of moral concern but only in relation to the interest of the individual human beings that constitute them. The idea that individuals are the basic unit of moral concern springs from the recognition of the doctrine that all humankind belongs to a single realm, and that each person is worthy of respect and consideration. This consideration is to be accorded the recipients by virtue of their membership of the human family and not because of their primordial affinity with an ethnic, tribal or religious groups or a particular gender.

B.) The second cosmopolitan principle – *universality* – suggests that the status of the ultimate unit of moral concern attaches to every living human being equally, and not just to a subset of human population, such as Muslims, Whites, Nigerians, women, and so on.[29] Translated into practice, the principle demands that in deciding a morally legitimate course of action, the interest of each human being affected must be taken into consideration equally. Elaborating further on the principle, Pogge tells us that it demands a disposition akin to the "Anonynimity condition" in Economics, where a certain number of individuals involved in a scenario are evaluated in the same way, regardless of who they are.[30]

C.) The third principle central to cosmopolitanism, according to Pogge, is *generality*. Put simply, the principle states that the special status of being the ultimate unit of moral concern, or of being worthy of equal consideration, has a global force. By this, Pogge meant that persons are an ultimate unit of moral concern for everyone and not just for fellow nationals, family or co-religionists, or all others with whom we maintain a special tie.

D.) The fourth and final principle is the principle of *all-inclusiveness.* The import of this principle is that the notion that every human being has the status of an ultimate unit of moral concern informs the decisional matrix from which cosmopolitans make their assessment and prescriptions. In other words, decisions from a cosmopolitan

perspective, must take into consideration the interests of all persons that could be potentially affected. Thus, the cosmopolitan is wont to see the value of nationality or other special ties from the perspective of the contribution they make towards the promotion of individual well-being.

A careful examination of these principles of moral cosmopolitanism highlighted above will reveal that they are not only overlapping, but that, in some respect, helps to illuminate each other. To understand the conceptual foundations of moral cosmopolitanism, therefore, it becomes imperative to understand how these principles dovetail into each other.

With the clarification of the basic principles of moral cosmopolitanism, the next section will focus on an examination of the diverse accounts of cosmopolitan justice. It begins with the utilitarian account of cosmopolitan justice as exemplified in the works of Peter Singer.

Cosmopolitan justice: the utilitarian account

As a moral theory, Utilitarianism is a particularly attractive position, given its simplicity and apparent consonance with our moral intuitions. Most people, for instance, agree that the consequences of our actions and inactions do have some moral significance. In its traditional formulation, utilitarianism deems actions right or wrong, depending on whether they maximize or minimize human pleasure. To paraphrase Bentham, Utilitarianism refers to the principle which approves or disapproves of every action, according to the tendency with which it appears to maximize or minimize the happiness of individuals affected by the action.[31] One famous attempt to address the problem of global justice and inequality from an Utilitarian framework is found in Singer's "Famine, Affluence and Morality."[32] In his subsequent writings, Singer continues to elaborate on the main arguments of "Famine, Affluence and Morality."[33]

In fleshing out his account of global justice, Singer premises his argument on two major propositions whose acceptance leads to cosmopolitan obligation to alleviate global poverty. The first proposition simply states that, "suffering and death from the lack of food, shelter, and medical care are bad."[34] For Singer, this proposition is

relatively uncontroversial; thus, he holds that most people would endorse it even if they reached the same conclusion through different routes.[35]

The second proposition is a conditional statement. Just like the first, Singer hopes it would appeal strongly to our moral sensibilities: "If it is in our power to prevent something bad from happening without thereby sacrificing anything of comparable moral importance, we ought morally to do it."[36] The phrase "without thereby sacrificing anything of comparable moral importance" is better understood from the utilitarian consequentialists' perspective. In essence, Singer is saying that when we weigh the consequences or cost of the action required to prevent the "bad" in question from happening, and we discover that the cost of preventing it is minimal relative to the "bad" to be prevented, we obligated to prevent the bad.

Interestingly, in spite of the obviously demanding nature of the second proposition, Singer thinks it does not go far enough. He, therefore, constructs a stronger version which demands that in our bid to prevent the "bad," such as "hunger," we ought to give until we reach the level of marginal utility, that is, the level at which by giving more, we would cause as much suffering to ourselves or dependents, as we would relieve by our gift. By extension, Singer here suggests that the level of sacrifice required to help the poor is such that will reduce us to very near material circumstances of the former.

To illustrate his argument that we are obligated to assist the poor, Singer opines that this does not require sacrificing anything of comparable moral significance. He asks us to imagine that we were walking past a shallow pond and, then, we found a child drowning. Singer concludes that we ought to wade in and pull the child out, even if it means getting our clothes muddy in the process. The implication of this thought experiment is that: just as we are obligated to save the drowning child, we have a duty to alleviate the suffering of the impoverished wherever they are found in the world.

Having outlined Singer's argument for helping the needy and the poor, the question might be asked: "Why is Singer's position here to be considered as an example of cosmopolitan justice as is the common practice in the literature?"[37] Singer's position is definitely cosmopolitan to the degree that he states that our obligation to help the impoverished is not limited to compatriots. Instead, he proposes that the duty to help

the needy applies to all individuals, irrespective of the presence, or lack, of special ties with them. In fact, one of the points that Singer tried to demonstrate with the allegory of the drowning child is that we are obligated to rescue the drowning child irrespective of our relationship to the victim. Simon Caney corroborates the cosmopolitan status of Singer's argument outlined above when he considered it as an example of global utilitarianism, which is obviously cosmopolitan at some fundamental level, since the argument takes into account each person's utility and treats all individuals impartially.[38]

Generally, we tend to hold that the duty to help the poor is a duty of charity, that is, an act which would "be good to do" but "not wrong not to do."[39] Singer, however, insists that, based on the strength of the two premises he provides for the conclusion that the affluent ought morally to help the poor, the duty to help the poor is an obligation of justice and not an act of charity. Thus, he breaks down the traditional distinction between duty and charity. For him, at least within the utilitarian account, the basis for helping the poor is the maximization of utility and not the satisfaction of the demands of charity. We do not condemn those who fail to give to charity, but for Singer the affluent who fails to prevent suffering by giving when it does not involve the sacrifice of anything of comparable moral importance, fails to act morally and could be condemned. From the above analysis, it is clear that Singer's argument for our obligation to help the poor is not an attempt to justify charitable acts; rather, he sets out to show that the obligation to help the poor is one that is stronger than charity. It is for this reason that Singer's account could be legitimately classified as a theory of global distributive justice.

Objections to Singer's account of cosmopolitan justice

Singer's utilitarian account of global justice has been subject to a barrage of criticism. The first major objection points to the over-demanding and the unduly stringent obligation that the theory imposes upon the individual. As indicated earlier, while Singer provides two maxims that indicate the level of sacrifice that is required of the affluent in helping the poor (the weak and the strong version), he clearly preferred the strong version which requires that we ought to give until we reach the level of marginal utility. Put differently, this implies that we give to the point where we are reduced to

very near material circumstances of the poor! It is for this reason that Singer's theory has been accused of failing to specify a reasonable limit to the universal duty to sacrifice on the behalf of the vulnerable. To demand that we work full time to maximize utility is to ask us to go beyond the call of duty, given that billions of people in the world live in absolute poverty.[40]

A related objection to Singer's account of justice is that of fixation with the need to maximize the good, it fails to provide a "conceptual space for heroic and saintly acts." In fleshing out his utilitarian conception of global justice, for instance, Singer argues that the adoption of his major premises will predispose the affluent to a less-wasteful and less-self-interested lifestyle. Thus, he advocates that the affluent should refrain from buying new clothes in order to look well-dressed so that whatever is saved thereby is sent to meet the needs of the poor. However, when the affluent heeds this plea, they are, within Singer's framework, not engaging in charity; rather, they are only satisfying the demands of justice. Thus, Singer's theory discounts the traditional distinction between duty and charity.[41] The inability of Singers account of justice to recognize this basic distinction is regarded as a major drawback.

In Kok Chor Tan's estimation, any moral theory that fails to recognize the distinction between obligation and supererogation does not only seem to involve itself in a *reduction ad absurdum* but also flies in the face of our common sense morality.[42]

Another objection raised against Singer's argument for helping the vulnerable is what Christopher Wellman and Andrew Altman call the "Particularity Problem."[43] The particularity problem arises because Singer's arguments probably established the obligation of the rich to assist the victims of poverty. On the contrary, it does not provide a convincing reason why the "wealthy folk must perform the particular chore of sending money to help those in absolute poverty."[44] To expatiate on the particularity problem, we must consider the fact that millions of people across the world suffer from a variety of evils, such as poverty, torture and genocide. Singer must concede that the wealthy individual retains the prerogative of deciding which of these evils to combat, particularly where he lacks the wherewithal to deal with them.

Singer, however, submits that the wealthy ought to help the poor without providing justification for why they should particularly focus on poverty. He does not likewise provide any basis for taking the position that the assistance should be in the form of money. Is it possible, for instance, to lobby political leaders or corporate executives to come to the aid of the poor? This is the particularity problem. Altman and Wellman put it succinctly:

> There appears to be a particularity problem for Singer's samaritanism: Even if we take for granted that the indecent conditions of others morally obligate us to help them, the Singerian arguments fail to establish that one's Samaritan energies must be focused on the particular problem of absolute poverty or the particular method of contributing money to relieve poverty.[45]

Singer's arguments for global distributive justice appear to be badly damaged by the preceding objections. It is really the case that his position demands a level of sacrifice that is higher than the requirement of conventional morality. Most individuals, for instance, do not think that they are morally compelled to help the vulnerable until they are reduced to a level close to the material condition of the latter. What Singer's argument, however, clearly demonstrates, particularly with the illustration of the drowning child, is that while we may have some discretion over how we dispense our resources, it will be morally commendable to help the poor irrespective of whether they are co-nationals or not. It is from this point of view that Singer's conception of global distributive justice could be regarded as cosmopolitan.

Having laid out the basic outlines of Singer's account of global justice and the basic criticisms against it, we will now proceed to examine the deontological approaches to global justice, as found in the writings of Henry Shue and Onora O'Neill. Interestingly, while the former emphasizes rights, the latter argues that the stress should be on duties. The position taken in this, work with regard to this distinction, is that rights and duties are two sides of the same coin to the degree that one conceptually implies the other.

Cosmopolitan justice: the deontological account

Unlike the Utilitarian approach which takes the maximization of utility as determinate indicator of the existence of justice, the deontological approach underscores the

importance of rights to justice. Accordingly, any theory of justice that takes rights to be indispensable and foundational can be said to be deontological. One interesting point about the deontological approach to cosmopolitan justice is that it resonates with our moral convictions, given that human rights enjoy unusual currency in contemporary moral and political discourse. In fact, one might conclude that under such an intellectual climate, it is inevitable that a theory of justice would be couched in the language of rights.

In his book *Basic Rights: Subsistence, Affluence, and U.S Foreign Policy*, Henry Shue provides and defends such an account of justice.[46] We shall outline that account in some detail. Shue sets out by characterizing rights in a somewhat complicated manner: "a moral right provides (1) the rational basis for a justified demand (2) that the actual enjoyment of a substance be (3) socially guaranteed against standard threats."[47] One radical implication of Shue's conception of right is that: if X has right, X *ipso facto* can make a legitimate demand on "relevant others."

Society, on the other hand, owes its members a duty to provide social guarantees for the enjoyment of these rights. From this account, Shue appears to have broken down the traditional distinction between negative and positive duties. To invoke the idea of compulsory social guarantees, for the enjoyment of certain rights, is to say that such rights necessarily imply correlative positive duties. However, we need to first examine the list of rights that Shue designates as basic before we return to the issue of correlative positive duties.

For Shue, there are three basic rights – the rights to security, subsistence and liberty. These rights take priority over other rights because without them, the enjoyment of other rights would be impossible.[48] Here is Shue's succinct elaboration:

> Basic rights, then, are everyone's minimum reasonable demand upon the rest of humanity...When a right is genuinely basic, any attempt to enjoy any other right by sacrificing the basic rights, would be quite literarily self-defeating, cutting the ground from beneath itself. Therefore if a right is basic, other, non-basic right may be sacrificed if necessary, in order to secure the enjoyment of non basic right. But the protection of a basic right may

> not be sacrificed in order to secure the enjoyment of a non-basic right.[49]

Having introduced security, subsistence and liberty as the basic rights, Shue proceeds to demonstrate how these basic rights ground the obligation of the affluent to assisting the poor. According to Shue, one strong argument which supports the proposition "that the affluent ought to help the poor" is found in the degradation principle, which simply states that "degrading inequalities ought to be avoided."[50] The assumption behind the degradation principle is that some forms of inequality are morally unacceptable because they degrade or violate the personal autonomy of the individuals at the lowest rung of the socio-economic ladder.

For those who may fail to be convinced by the above arguments, Shue offers a more elaborate argument to establish the need to protect basic rights on a global scale. He is of the opinion that degrading inequalities are not only unfair, such a state of affairs is also a definite violation of the notion of justice as reciprocity. According to Charles Jones, justice as reciprocity defines individuals we owe a duty of justice as those who are fellow participants in a mutually-beneficial cooperative scheme.[51] By alluding to justice as reciprocity or mutual advantage, Shue appeals to a tradition in the conceptualization of justice that runs from Plato to Rawls.

In this regard, Shue contends that any system of property rights that prohibits theft and unlawful appropriation of property can only be fair if it guarantees the fulfillment of the subsistence rights of the economically worst off. Shue seems to imply that if the poor keep their own part of the bargain, by not stealing from the wealthy, and thereby refrain from destroying the system of property rights, the society is obligated to protect the least advantaged.

> Under what conditions is it fair to have property institutions that prohibit theft even by someone who is the fear of starving, or, more likely slowly but inexorably deteriorating from nutritional insufficiencies? The answer, I think, is only if the same sets of institutions provide guarantees that the person in question will not in fact degenerate from insufficient consumption. More generally, institutions governing the ownership and transfer of property can only be fair only if the possession

> of the commodities required for the satisfaction of subsistence need is guaranteed to those from compliance with the institutions is demanded. The moral acceptability of the enforcement of property rights depends on upon the enforcement of subsistence rights.[52]

The objective of all of Shue's argument above is to establish, on the one hand, the entitlement of individuals across the world, to the basic rights of subsistence and the correlative duties of the affluent to protect the right. The question that may be asked at this point is: how in Shue's famework are rights correlated to duties? Shue's answer is that all basic rights, such as security, subsistence and liberty, necessarily entail a tripartite system of duties. Thus, a right is only secure when all these duties are observed.

Shue calls the first duty *avoidance*. This refers to the negative duty, already popular with liberals, which demands that we refrain from direct or indirect violation of the right of others. The second duty is *protection*, which requires two major responsibilities: (i) that we take positive steps to enforce the first duty, and (ii) that we create institutions that avoid the creation of strong incentive to violate the first duty. The third is the duty to *aid* the deprived. Notably, the deprived in Shue's account of justice is a broad category. It includes: (i) those to whom we stand in special relationship, (ii) those are victims of social failure to guarantee basic rights, and (iii) those who are victims of natural disasters.[53]

In outlining the categories of individuals that we owe a duty of avoidance, protection and aiding of the deprived, we see Shue's cosmopolitan credentials. He makes it clear that, just as we owe compatriots and others that are dear to us the duties listed above, we are equally obligated to non-compatriots. In fact, Shue suggests that the protection and promotion of subsistence rights will require certain global institutional reforms and multilateral cooperation to enforce and facilitate the performance of the duties correlative to the rights in question. As he puts it: "...if duties to avoid depriving people of their last means of subsistence are to be taken seriously, some provision must be made for enforcing this duty on the behalf of the rest of humanity upon those who will not otherwise fulfill it."[54] For Shue, therefore, basic rights are owed to all humans, and they are universally binding.

Objections to Shue's account of cosmopolitan justice

Like Singer's Samaritan account of cosmopolitan justice, Shue's account has also been the subject of much criticism. Here, we would highlight two of the major objections raised against him. The first objection challenged Shue's claim that the right to subsistence is a 'basic right'. Interestingly, one strategy that has been employed to demonstrate that subsistence rights are not necessarily basic is hinged on Shue's own definition of basic right, that is, a right whose enjoyment is essential to the enjoyment of other rights.

The argument simply shows it is possible to enjoy some minimal rights in the absence of subsistence rights. As James Nickel and Hasse Lizbeth put it: undoubtedly, people must be alive in order to enjoy their right, but it is not clear that in order to enjoy a right to due process or a right against being tortured, a person must have an effectively implemented right to the necessities of life.[55] The argument above, which purportedly demonstrates that the right to subsistence is not a basic right as claimed by Shue, can be easily refuted. Shue might counter-argue, for instance, that the chance of enjoying the right to due process, for the absolutely poor, is violated by the fact that they are susceptible to manipulations by the affluent. Similarly, Shue could insist that to be denied the right to subsistence is to be allowed to starve, which is a form of torture

O'Neill on cosmopolitan justice

The second, and of course, the most significant objection to Henry Shue's account of universal basic right comes from Onora O'Neill. According to her, right-based theories are conceptually incomplete. This is because while rights must have corresponding duties, not all rights entail a corresponding assignment of clearly defined duties to a specific duty bearer. O'Neill argues that in order for a right to be meaningful, it "has to be allocated to specific obligation bearer" since no one can effectively claim a right that is not clearly the duty of a specified other.[56] For example, the right not to be physically harmed has both a clearly assigned duty bearer and a specified duty (the duty bearer here will be everybody, whereas the duty is that they must refrain from unjustifiably harming me). If we take the case of the right to subsistence, however, the duty or duties derived from this are neither clearly specified nor are they assigned. Tan states the

problem succinctly: "To say the poor of the world have a right to some relief does not tell us who has the obligation to provide this relief and the nature and the extent of this obligation? Thus, the right to subsistence falls into the category of right, as described by O'Neill as 'manifesto right', that is, empty right that generates imprecise obligation on the part of others. It is this perceived weakness of the right perspective on cosmopolitan justice that probably motivated O'Neill to adopt a duty based approach; thus, bringing us to O'Neill's duty-based account of cosmopolitan justice.

It is important to indicate from the outset that O'Neill's duty-based approach to cosmopolitan justice draws heavily from the Kantian moral philosophy. In fact, it could be argued that O'Neill's major contribution to the discourse of global justice is a reformulation and an extension of Kantian principles, in order to ground positive universal duties to the severely deprived segments of the human community.

O'Neill's neo-Kantian account of what cosmopolitan justice requires is rather technical and complicated. Thus, in the paragraphs that follow, we will only outline the main elements of the argument. At the core of O'Neill's approach to international ethics is the Kantian categorical imperative, which stipulates that we "act according to the maxim by which you can at the same time will that it should become a universal law."[58] While adopting the principle of categorical imperative, O'Neill introduces some important modifications to the Kantian framework in order to weave together her own account of cosmopolitan justice. First, O'Neill puts an appropriate emphasis on the implication of 'human finitude', that is, the claim that human beings are embodied creatures with material and psychological needs.[59] Although Kant was not oblivious of this fact, it was O'Neill that brought out the full implication of the problem of human finitude for moral decision making. In the words of Jones:

> O'Neill's perspective is not original but what is new – as against the traditional Kantian approach – is the emphasis on the centrality of the needs of physically limited, and partially rational persons for considering the acceptability of acting on a maxim that affect the interest of others. If human beings are to act at all, they require food, water and protection. Accordingly maxims which deny access to such necessities could not pass the universalisability test and are therefore morally impermissible.[60]

Thus, while Kant recognized the idea of human's limited capacity to reason, it was O'Neill who added the concept of inherent physicality and all the associated problems of human dependence and vulnerability.

O'Neill's second modification to Kant's ethical framework is the extension of the principle of categorical imperative, to cover the maxims of both individual and collective agents. This extension became necessary because if the maxim is restricted to individual human interaction, "there is little hope that anything will be said about global issues, such as world hunger and poverty. Thus, the logical way to proceed is to assess the maxims on which influential collective agencies act, i.e., nation states, transnational corporations, powerful non-governmental organisations like the World Bank and the International Monetary Fund)."[61] The question then is: How does the combination of O'Neill's comprehensive understanding of human finitude and the expanded application of the categorical imperative lead to a theory of cosmopolitan obligations?

O'Neill's strategy is decidedly cosmopolitan. Adopting the categorical imperative as the ultimate test for determining which maxims we must live by, O'Neill, like Kant, derived two fundamental principles that must inform our theory of obligation. These are the principles of "non-coercion" and "non-deception." From these fundamental principles of Kantian theory of obligation, O'Neill sought to demonstrate our obligation of justice to the world's poor. According to her, these principles do not only require a mere negative duty to refrain from coercion, they also demand that we must take positive steps to create the necessary material conditions that shield vulnerable persons from being exposed to coercion or deception. In other words, since human beings are not ideal rational agents, their physical needs and vulnerabilities render them susceptible to coercion and deception. Hence, the only way to ensure justice under such conditions is to "at least meet standards of material justice and provide for basic material needs in whose absence all human beings are overwhelmingly vulnerable to coercion and deception." [62]

Based on this important consideration, O'Neill insists on the need to embark on a fundamental restructuring of the global political and economic order, to reflect Kantian

principles of justice. It is only when global economic arrangements, she maintains, are free of coercion and deception that they can be said to be just.[63] As already indicated, such a just global order would be designed to meet basic material needs. Thus, in the final analysis, O'Neill's defends a position that we owe a universal obligation to assist needy persons. Herein lies a significant difference between Kantian internationalism and O'Neill's cosmopolitanism. Whereas Kant argued for a federation of free independent states in which the treatment of individuals is limited to considerations of "universal hospitality" or beneficence, O'Neill defends a more extensive set of obligations towards individuals irrespective of whether they are conationals or not.[64] For O'Neill, unlike Kant, satisfying the material needs of the poor is a matter of justice and not of beneficence.

Objections to O'Neill's account of cosmopolitan justice

Like most other accounts of cosmopolitan justice, O'Neill's duty-based account of justice has not been spared of criticisms. Tan, for instance, takes an exception to O'Neill's claim that a right-based account of cosmopolitan justice is conceptually inadequate. According to him, O'Neill commits the fallacy of confounding strategic and conceptual issues, which ought to be distinctly kept apart.

> ...O'Neill's characterisation of the right based approach as theoretically inadequate seems to run together a strategic question with a conceptual one. As acknowledged by both sides of the debate, there are duties corresponding to rights. But that certain duties are vague or unassigned does not tell us that their corresponding rights are empty and meaningless. On the contrary, these "Manifesto" rights, should we take rights seriously, will generate the more immediate obligation on us to assign and specify their correlative duties (corresponding to rights) is a strategic question, and in fact that the concept of right does not immediately give us answer to this question does not mean that it is conceptually inadequate. [65]

Beyond the confusion of strategic and conceptual issues, Tan is not convinced that the duty-based approach is fundamentally different from the right-based approach. If anything for Tan, they are nothing but two sides of the same coin. Again, in his words:

> In short O'Neill's maverick Kantianism, which seeks to return to Kantian roots of deontological ethics by focusing on duties, does not provide a conceptual alternative to a rights based approach. A focus on duty serves an important or strategic purpose.... A duty based approach, however, does not do any distinct conceptual work. Rights and duties are two sides of the same coin on a deontological perspective.[66]

Aside from the criticisms levied against O'Neill, duty based approach to cosmopolitanism, a number of other objections has also been pointed out by Charles Jones and others. But for our purposes in this chapter, the ones already discussed will suffice.[67]

Having examined the deontological approach to cosmopolitan justice, which consists of both the rights-based approach, on the one hand, and the duty-based approach, on the other, we may now examine another broad approach, which perhaps appears to be the most prominent account of cosmopolitan justice: the Rawlsian-based approach, championed by Charles Beitz and Thomas Pogge. We shall discus their specific account of cosmopolitan justice in turns.

Cosmopolitan justice: the Rawlsian-based account

To put the Rawlsian based account of cosmopolitan justice in perspective, we must begin with some general outline of John Rawls' postulations on justice. Chapter One of this thesis contains an elaborate study of Rawls' theory of justice. Here, we will provide a brief sketch to serve as a launching pad for discussing Beitz's and Pogge's accounts of cosmopolitan justice. Rawls' magnus opus, *A Theory of Justice*, sets forth a powerful argument to demonstrate the basic principles that would be adopted by a just society. He begins by assuming, from a contractarian perspective, that society is a more or less a "self-sufficient cooperative scheme for mutual advantage."[68] Since all cooperative ventures must be governed by rules, Rawls provided a thought experiment to show how just societies will arrive at the principles that will determine the distribution of primary goods. Thus, he introduced the idea of the original position, a hypothetical construct in which the rational representatives of free and equal citizens deliberate on the

appropriate principles that will govern the distribution of primary goods from behind the veil of ignorance.[69]

Rawls concludes that, given the conditions described above, the representatives will adopt two principles of justice – the 'liberty' and the 'difference'. Respectively, these principles specifically require that:

1. Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.

2. Social and economic inequalities are to be arranged so that they are both to the greatest benefit of the least advantaged, consistent with the just savings principle, and attached to offices and positions open to all under conditions affair equality of opportunities.[70]

In Rawls' view, these principles would ensure that the background conditions for economic transactions are just by partially eliminating the advantages that may accrue to individuals on the account of such arbitrary factors as race, gender, talent and wealth.[71]

While Rawls leaves nobody in doubt that these two principles of justice apply to domestic societies, curiously, he does not think that they apply to the global arena. In a rather short discussion on international relations in *Theory of Justice*, Rawls came up with a second original position which, unlike the first, had states as representatives instead of individuals. From this second original position, he derives a number of principles which are already fairly popular in the regulation of international relations. These include the principles of self-determination, just war, and justice in war.[72]

Rawls' refusal to extend his two principles of justice, particularly the difference principle, to the global context, has come under heavy criticisms from cosmopolitans, such as Charles Beitz and Thomas Pogge, who think that Rawls is not sufficiently 'Rawlsian' to the degree that he arbitrarily restricts his two principles of justice to the domestic arena.[73]

An objective reading of Rawls, they suggest, logically demands the extension of the principles to the international context. Thus, Beitz and Pogge had gone ahead to develop accounts of global justice by explicitly employing the Rawlsian framework. This explains why their accounts of justice are described as 'Rawlsian'. With this background, we may now proceed to examine Beitz' and Pogge's theory of cosmopolitan justice.

In *Political Theory and International Relations*, a book regarded as one of the classic statements of cosmopolitan justice, Beitz made a significant revision of Rawls' theory of justice in order to demonstrate that a logical extension of the former, to cover global relation, is possible. Specifically, Beitz introduces two major arguments against Rawls in order to reach his conclusions. His first argument is that even if we accept that states are separate, self-contained societies, as Rawls claims, the second original position will yield a more comprehensive contract than Rawls had predicted. His second argument is that judging from the flurry of cross-border relations that characterise our world today, states are not self-contained communities, and as such, Rawls' second contract was not necessary. Conversely, Rawls' principles of justice, including the difference principle, ought to apply internationally.

These arguments, no doubt, are related but they need to be disentangled. In the first argument, Beitz takes issue with Rawls' narrow restriction of the outcome of the international original contract to familiar principles for regulating international relations, such as self-determination, just war, and so on. Rather, he contends that since states' representatives are like their domestic counterparts, rational and self-interested, they will, in addition to other principles outlined by Rawls, consider principles of equitable distribution of resources. The task for equitable distribution will become an imperative, Beitz explains, since the representatives would know that natural resources are distributed unevenly over the earth surface.[74] Armed with this information, but not knowing their nationality and the extent of the resource endowment of their states, they would introduce a rule that distributes the world's resources equally.[75]

Beitz' second argument seeks to refute the assumption held by Rawls that the countries of the world are economically and culturally self-contained entities. He points out the

empirical fact that the overall volume of cross-border interactions is not only huge but continues to increase. According to Beitz, these cross-border interactions include communications travel, and foreign investments.[76] Beyond the claim that the level of international economic interdependence has transformed the world into some form of global society, Beitz further suggests that the cost of the new interdependence is disproportionately distributed between rich and poor nations. He argues, for instance, that increasing economic interdependence has for the most part led to the exacerbation of the already existing economic and political inequalities. He notes that the greater involvement of developing nations in the evolving global market often comes at the cost of further stratification between the politico-economic class who are active participants in the global arena, and the rest of the masses who are relegated to the sidelines of global economic activities.

In addition to this problem, Beitz mentions that poorer nations often find themselves at the mercy of international financial institutions, such as the World Bank and the IMF, who often dictate the direction of the local economy. If we put all the above observations together, the picture that Beitz ultimately paints is that the world is characterized by a condition of complex economic interdependence, which generates benefits and burdens that would not exist if the countries of the world were closed, autarkic systems.[77] In essence, Beitz claims that as a result of interdependence, the world now represents a universal cosmopolitan society. The implication of this submission is that Rawls' full account of justice ought to apply to the global arena; therefore, there would be no need for a second contract.[78] Thus, in the final analysis, Beitz advocates the need for some form of resource distribution between nations.

Like other accounts of cosmopolitan justice, Beitz-Rawlsian approach has been the butt of considerable volume of criticism. Before we examine some of these criticisms, it is pertinent to point out that, as a work that stands in the interface of ethics and international relations, Beitz' *Political Theory and International Relations* demonstrates a firm grasp and comprehension of the intricately complex fields of *Political Philosophy and International Relations*, as well as the interconnection between the disciplines. Shue corroborates this view in his critical review of Beitz' book: "Bietz belongs to the currently, but again decreasing, rare breed of

theorists/philosophers who like Marx, Mill and other richest sources in the tradition, are equally at home with political questions and philosophical questions."[79]

Objections to Beitz' account of cosmopolitan justice

Perhaps the most devastating objection to Beitz' attempt to globalise Rawls' principles of justice has come from those who have questioned his assumption that increased transnational interactions logically entails the conclusion that the word now represents a cooperative scheme in the Rawlsian sense. Brian Barry, for instance, is not convinced that the present global form of economic interdependence resembles a cooperative scheme. He contends that the mere fact of economic interdependence in the absence of other relational structures, such as political institution, will not suffice to justify the validity of extending the ideas of justice to the global plane. In his words: "It seems to me that trade, however multilateral, does not constitute a cooperative scheme of the relevant kind. Trade, if freely undertaken, is presumably beneficial to the exchanging parties, but it is not, it seems to me, the kind of relationship giving rise to the duty of fair play."[80]

A similar objection has been raised by Henry Shue against Beitz's account of global justice. In a review of the *Political Theory and international Relations*, Shue argues that while Beitz succeeded in showing that nations are not necessary self-contained territories, he has not succeeded in demonstrating the international system approximate to a system of mutual cooperation.[81]

Interestingly in the light of the objections above, Beitz, in his later writings, has abandoned the global interdependence argument; he now advocates the same conclusion by invoking a Kantian account of the moral equality of persons.[82] Thus, Beitz paradoxically goes back to the starting point of cosmopolitanism in ancient Greece, to a variety of cosmopolitan thinking that justifies our obligation to the 'universal others' by reference to our common humanity.

Pogge on cosmopolitan justice

Thomas Pogge is another Rawlsian who has, in a series of books and articles, sought to demonstrate why Rawls' principle of justice ought to be globalized.[83] Focusing on two

central ideas of Rawls, he persuasively constructs a global interpretation of Rawls' domestic theory of justice. Specifically, Pogge focuses on (1) the idea of the basic structure, and (2) the notion that any scheme or social institution ought to be evaluated by how well it treats the least advantaged participants.[84]

Like Beitz, Pogge takes an exception to Rawls' reluctance to apply his principles of justice to the global context. As indicated earlier, one major reason why Rawls confines his principles of distributive justice to the domestic, and particularly to the basic structure, is that he is convinced that national economies are more or less self-sufficient, closed systems or self-contained entities. Pogge, of course, agrees with Rawls that the basic structure, that is, a set of economic and political institutions, that has profound and enduring effect, on the distribution of the burdens and the benefits among people and individuals around the world, is the appropriate object of justice. He, however, argues that the basic structure does not only exist at the domestic level but that it also does at a global level. Thus, Pogge speaks of a global basic structure.[85]

To demonstrate the existence of such a structure, Pogge *a la* Beitz points out the traffic of international and intra-national economic transaction which is profoundly shaped by an elaborate system of treaties and conventions about trade, investments, loans, patents, copyrights trademarks, double taxation, labour standards, environmental rights and the use of sea beds resources and much else in the modern world.[86] These, according to Pogge, are the different aspects of the global institutional order that determines how the burdens and benefits of global economic interaction are distributed. For him, in the light of the existence of the global institutional order described above and the huge economic interactions between the nations of the world, it is not correct to conceive of national economies as closed systems. Pogge, in fact, goes ahead to accuse Rawls of committing the fallacy of 'explanatory nationalism', that is, the position that economic well-being of states can be fully explained in terms of national and local factors.[87] While Pogge does not discount the importance of national and local factors in shaping a nation's economies, he argues that the global institutional order still does have a profound effect on national economies across the world. Thus, any objective assessment of the reason why the nations of the world are divided into the affluent and poor must necessarily point up the role of global factors. To further buttress his point

about the structural root of global injustice, Pogge makes it clear that the problem goes beyond the economic sphere and permeates the current global background conditions within which national and transnational relations take place. He notes that existing international law and its practices further marginalize the disadvantaged and vulnerably poor, while maximizing the interest of the rich, privileged few. With particular reference to resource and borrowing privileges, which the present global order affords to illegitimate government and Juntas, on the account of the principle of sovereignty, Pogge has this to say:

> any group controlling a preponderance of the means of coercion within a country is internationally recognized as the legitimate government of this county territory and people regardless of how this group came into power, of how it exercises power and to the extent to which it may be supported or opposed by the population it rules.[88]

He argues further that when the international community gives despotic and illegitimate governments recognition, as well as resource and borrowing privileges, it becomes willy-nilly accomplices, in a system that promotes injustice, by failing to protect the interest of the poor and the marginalized.[89] Pogge's point is not that the international community is not merely failing in its negative duty not to harm the poor, he actually contends that the citizens and governments of the affluent nations, whether intentionally or not, are imposing a global institutional order that foreseeably and avoidably reproduces severe and wide spread poverty'. [90] The worse off, he continues, "are not merely poor and often starving but are being impoverished and starved by our shared institutional arrangements which inescapably shape their lives.[91] These shortcomings of the global institution order, the rules, norms and practices that form the background condition of global economic and political relations, are evidently unjust to the degree that they perpetuate and deepen global poverty. Thus, the issues of justice, as far as Pogge is concerned, definitely arise in the global context.

Apart from the argument from the imposition of an unjust global institutional order on the world's poor, Pogge strengthens his position by two supplementary arguments, namely, the argument from uncompensated exclusion from the use of natural resources and the argument from the effects of a common violent history.[92] The argument from

uncompensated exclusion from use of natural resources goes thus: “The better off enjoy significant advantages in the use of a single natural resource base from whose benefits the worse off are largely, and without compensation excluded.”[93] Pogge elaborates on this point: 'Currently, appropriation of wealth from our planet is highly uneven, affluent people use vastly more of the world's resources, and they do so unilaterally without giving any compensation to the global poor for their disproportionate consumption'.[94]

The argument from the effects of a common violent history simply states that the social starting positions of the worse-off and the better-off could be traced to a single historical process that was characterized by massive and grievous wrongs.[95] In essence, Pogge is arguing that the present circumstances of the global poor are significantly shaped by the tragic experience of conquest and colonization with severe oppression, enslavement and even genocide, which saw to the destruction of native institutions and cultures of significant proportion of the world's population.[96]

With these two important supplementary arguments, Pogge insists on his initial contention that the existence of an unjust global institutional order, coercively imposed upon the poor, means that we are violating our negative duty to refrain from harming the poor. On account of these arguments, he concludes that there are morally significant ties that bind the affluent nations and the poor ones together. Thus, he submits that the affluent nations owe the moral obligation of justice to urgently address the problem of global poverty.[97]

To correct the injustice perpetrated by the current global institutional order, Pogge suggests the need to change the ground rules so that they can be more favourable to the least advantaged countries of the world. One specific reform that Pogge had emphasized is the introduction of the Global Resources Dividend (GRD). The GRD imposes a resource tax of roughly 1% which is to be levied on the use of world natural resources. He explains that the rationale is to ensure that “those who make extensive use of the resources of our planet (these coincide roughly with the affluent) should compensate those who involuntarily use little.”[98] With specific reference to oil, Pogge estimates that with a $3 tax per barrel, about 30 percent of all the funds needed to deal with absolute poverty can be generated annually. If revenues generated from GRD on

oil alone could furnish 30% of the needed aid for the poor, Pogge asks us to imagine how much could be generated from all natural resource put together. He is, therefore, optimistic that without any major changes to our global economic order, it is possible "to eradicate world hunger within a few years by raising sufficient revenue streams from a limited number of resources and pollutants."[99]

Objections to Pogge's account of cosmopolitan justice

The present study claims that Pogge's arguments for cosmopolitan justice is certainly more nuanced than Beitz's. He definitely provides a variety of persuasive arguments to demonstrate that the affluent nations owe the poor countries a duty, not only to alleviate their poverty but, also, to restructure the global economic order along a more egalitarian line. Nonetheless, his account of global justice is vulnerable to a plethora of criticisms. First, the question might be asked whether it is indeed global or domestic factors that are the decisive determinants of a nation's economic development. Mathias Risse, for instance, has argued that Rawls was right to assume "explanatory nationalism" or to hold domestic factors as decisive in determining a state's economic prosperity while Pogge was wrong to put the emphasis on global factors, that is, the global basic structure.[100]

One other major problem with Pogge's conceptualization of global justice is that he makes the latter to be dependent on the existence of global institutions that harm the poor. By implication, in the absence of such institutions, we cannot provide a coherent account of global justice. However, the present study maintains that justice is a pre-institutional norm. In other words, justice considerations can still be relevant in the absence of common institutions. As Tan puts it, to claim that the prior existence of a global cooperative scheme is a necessary condition for justice is to "misconstrue and pervert the purpose of justice." It puts the cart before the horse by inverting "the relation between justice and institutions."[101] Justice is supposed to regulate and inform our institutional arrangements, not the other way round.

This would lead us to another objection to Pogge's account of global redistributive justice. Underlying that account is what Pogge himself calls the institutional approach, as distinct from the interactional perspective. In the institutional approach, the agents of

justice are states or social organizations. Thus, justice is primarily meant to evaluate the morality of social and political institutions. In contrast to the institutional, the interactional approach focuses on individual agents, groups, collectivities and corporations. The responsibility of these agents largely depends on the causal impact of their actions on other people. One problem with the institutional approach is that it cannot comprehensively cover the entire field of injustices. Caney, for instance, correctly observes that one major shortcoming of the institutional approach is its failure to give an account of one's responsibility to persons who do not belong to one's institutional scheme.[102] What Pogge's argument about the global institutional order shows, Caney asserts, is that "membership of an institutional scheme has some moral relevance because one has a negative duty, not to participate in an unjust social order." That one, however, Caney maintains, has a negative duty not to participate in an unjust social scheme obviously does not entail that these are the only duties of justice one has.[103]

Caney's argument against Pogge's restriction of justice solely to the evaluation of institution is right on target. Clearly an institutional focus in the matter of justice literally ignores all other injustices and unfair treatment that results at the level of interpersonal interaction. It is for this reason that the present study rejects Pogge's restricted institutionalism. The approach taken here is that if we must deal with the various forms of injustices that take place in the world today, we must combine both the institutional and the interactional perspectives. It is only by combining these two perspectives that we can have a framework broad enough to take care of injustices at the institutional as well as the interpersonal levels.

Conclusion

This chapter, has examined, in some detail, the meaning of cosmopolitanism, the major distinctions that could be drawn in the discourse on cosmopolitanism and the various principles of cosmopolitanism. The second part of this chapter specifically focused on a critical exposition of the various accounts of cosmopolitan justice. In particular, it examined Singer's utilitarian account of cosmopolitan justice and also provided a detailed analysis of the deontological approaches to cosmopolitan justice, as

represented in the rights-based approach of Shue and the duty-based approach of O'Neill. Whereas it is acknowledged that the two perspectives may differ in some respects, our conclusion is that they are actually two sides of the same coin; thus, such can theoretically complement each another. Finally, the chapter examined the Rawlsian-based perspective, which provides the foundational inspiration for the accounts of Beitz and Pogge on cosmopolitan justice.

Of interest to this research is the fact that every account of cosmopolitan justice, here examined, has its strengths and weaknesses. However, the fundamental criticisms in this regard are specific to these individual accounts of cosmopolitan justice. In the next chapter, we shall proceed along this line of thought, but our focus will be a critical examination of the objections to the notion of cosmopolitan justice in general.

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CHAPTER THREE

COSMOPOLITAN JUSTICE AND ITS CRITICS

Introduction

Cosmopolitan justice, from a perspective, may be viewed as a revolutionary idea that challenges the orthodox, territorially bounded, understanding of justice which pervades most of traditional socio-political philosophy. As noted in Chapter One, whereas traditional political philosophy was concerned with justice in the polis, cosmopolitan political theorists criticise this narrow understanding of justice in the present age of increasing interdependence, arguing that our concern must go beyond the polis to issues of justice in the cosmopolis. Evidently, at the forefront of the cosmopolitan challenge to the territorially bounded understanding of justice are thinkers like Peter Singer, Charles Beitz, Thomas Pogge, Henry Shue, Onora O'Neill, to name a few.

In his introduction to *One World*, for instance, Singer expresses his disappointment with John Rawls' *A Theory of justice* for failing to discuss the extremes of wealth and poverty that exist between different societies."[1] Perhaps Singer's disappointment here is justified. Plato's and Aristotle's omission of global justice in their works is understandable given that these philosophers lived in small city-states, and were probably not in position to envisage the huge volume of transnational activity and the mutual independence that characterize international relations today. For Singer, like all other cosmopolitans, the exclusive focus of traditional political philosophy on territorially bounded justice does not sufficiently come to grips with the degree of interconnectedness which, according to Fernandez Armesto, has transformed the world into an 'overlapping communities' of fate.[2]

In order to show that the development of the idea of Global justice in contemporary political philosophy is an imperative, O'Neill argues that the system of states would be

just if, at least, two conditions apply. One, that each of the states that form the system is just; two, that the states do not have influence or effect on one another.[3] Of course, if states do not have any impact or effect one another, the question of justice between them will not arise.[4] However, O'Neill correctly observes that the system of states, as it actually exists today, does not fulfill the conditions stated above. Therefore, it is clearly an indisputable fact that there are a number of unjust states in the present state system that do influence and have impact on the others.

According to O'Neill, the prospects and powers of states, and the structures they can establish internally, are always shaped by the relations of dominations and subordination between them.[5] For this reason, he submits that it is implausible to think that bounded societies, or cities and communities, and other bounded entities provide the sole context of justice.[6] Justice, therefore, in addition to being conceived of as a bounded principle which applies within the borders of a state, must also be seen as applicable across borders in the global arena. We must, in the light of mutual global interdependence, and on account of the principle of moral equality of persons, develop the notion of cosmopolitan justice or justice across borders.[7] Here, in brief, is the cosmopolitan challenge to traditional political philosophy. Interestingly, the cosmopolitan attempt to privilege the notion of justice across borders has met with stiff opposition, as demonstrated by the plethora of criticisms that have been levied against it from various quarters.

Objections to cosmopolitan justice

The realists argue that justice and other moral norms are irrelevant to the global arena because states are exclusively motivated by the pursuit of power and their national interest. Communitarians, such as David Miller, object to the notion of global justice on the ground that the "thin" associational tie between nations and individuals at the global level is insufficient to trigger a universal obligation of justice. Walzer, another communitarian for his part, wants us to discard the idea of global justice because in the light of global cultural diversity, it would be impossible to develop an account of global justice which would be persuasive across cultures.[8] John Rawls has also resisted the attempts to globalise his difference principle by showing that our obligation in the

global context is limited to the duty of humanitarian assistance. We will now critically evaluate these objections to cosmopolitan justice.

The realist on the irrelevance of international norms

We begin with the realist objection. Realism, sometimes labeled as 'political realism', 'Realpolitik' or 'power politics', is one of the oldest and most influential theories of international relations.[9] Generally, the origin of realism is often traced back to historical figures in antiquity. Thucydides' account of the Peloponnesian war in the fifth century B.C is often interpreted as a realist account. In that account, Thucydides argued that the cause of the war between the Athenians and the Spartans could be traced to the increase in Athenian military powers and the insecurity among the Spartans. Thucydides' emphasis on the role of power in politics, is encapsulated in his often-quoted phrase which states that the "strong must do what they have power to do and the weak must accept that they have to accept."[10]

Niccolo Machiavelli is also regarded as a grand patron in the realist tradition. He is famous for advising princes who are intent on consolidating their power to concentrate on expedient actions, including the manipulation of their citizens and military alliances. As far as Machiavelli is concerned, morality or normative principles do not apply in politics:

> There is much a gap how one lives and how one ought to live that anyone who abandons what is done for what ought to be done learns his ruin rather than his preservation: for man who wishes to make a vocation of being good at all times will come to ruin among many who are not good. Hence, it is necessary for a prince who wishes to maintain his position to learn how not to be good, and to use this knowledge or not use it according to necessity.[11]

Thus, Machiavelli endorses the relegation of morality to the sidelines of politics and recommends manipulative power maneuvers. Most contemporary realists hold that the deception and power politics advocated by Machiavelli is more appropriate in international arena where there is no overarching authority to regulate interstate relations.

Thomas Hobbes is, perhaps, the most popular of the "founding fathers" of contemporary Realism. As already indicated in the first chapter, Hobbes' depiction of human interaction in the pre-social state of nature is one that unfolds under a general background of anarchy and insecurity. Holding a pessimistic conception of human nature, he posits that men are driven by competition, diffidence and glory.[12] Given these deadly impulses and the absence of a sovereign authority in the state of nature, human relation becomes vicious and conflict ridden, a condition which could easily degenerate into violence. Hobbes' description of the human condition in the state of nature is quite vivid: "During the time men live without a common power to keep them all in awe, they are in that condition which is called war as is of everyman against everyman. It is for this reason that the life of man in the state of nature is 'solitarily, poor, nasty, brutish and short'.[13]

Realists see a parallel between the state of nature and the international political system, since there is a lack of an international body that can enforce laws and treaties among the states that operate therein. In international affairs, therefore, we are confronted with Hobbesian anarchy, and in the absence of an international sovereign that can apply sanctions when treaties are violated, states will exclusively pursue their national interest without any consideration for normative principles.[14] It is against this background that the realists argue against cosmopolitan justice. Their objection, it must be stressed, is not that the idea of global justice is incoherent; rather, they claim that it amounts to starry-eyed idealism to formulate the notion of cosmopolitan justice, given the anarchy that characterises the international political system. In other words, the absence of an international sovereign, who can enforce the demands of justice, means that any talk of justice at the global level is an exercise in futility. In the absence of sanctions, nations are not likely to give heed to sanctimonious demands of justice except only on occasions where they are convinced that adherence to a particular moral principle will promote their long-range interest.

Thomas Nagel on the problem of global justice

One recent elaboration of the realists' argument against cosmopolitan justice is provided by Thomas Nagel, in a tremendously famous article, titled 'The Problem of

Global Justice'.[15] In the remaining part of this discussion on realism, we shall critically examine Nagel's realist's argument against global justice.

Nagel advances two strands of argument to support the position that distributive justice is only possible within the framework of a sovereign state. With this position, Nagel is, in effect, demonstrating that since there is no world government, the issue of global justice does not arise. The first strand of argument which he provides is based on the elaboration of Thomas Hobbes' state of nature argument while the second rests on the modification of John Rawls' argument that justice is only applicable in a context where we stand with others in strong political relations.[16] Our concern here will be Nagel's first argument, since a whole section of Chapter Three is devoted to an assessment of Rawls' objection to the idea of cosmopolitan justice.

In developing the Hobbesian argument against cosmopolitan justice, Nagel, following Hobbes, seeks to make explicit the link between justice and sovereignty. According to him, justice depends, for its existence, on "the coordinated conduct of large number of people who cannot be achieved without law backed up by a monopoly of force."[17] In Nagel's view, as in Hobbes', the principle of justice, or moral principles in general, is a "set of rules which will serve everyone's interest if everyone conformed to them.''[18] But this collective interest cannot be realised by merely relying on the belief that all self-interested individuals can be independently motivated to conform to the rules except each of them 'has the assurance that others will conform, if he does'.[19] Nagel suggests that the only way the individual actor can secure such assurance is through the form of external incentive, provided by a sovereign, of the monopoly of force to sanction actors who deviate from the principles of justice:

> The only way to provide the assurance is through some form of law, with a centralized authority to determine the rules and a centralized monopoly of power of enforcement. This is needed even in communities most of whose members are attached to a common ideal of justice both in order to provide terms of condition and because it doesn't take many defectors to make such a system unravel. The kind of all encompassing practice or institution that is capable of being just in the primary sense can exist only under a sovereign government.[20]

It is clear from the above passage that Nagel believes that the idea of justice can only be meaningful in contexts where the principles of justice can be effectively enforced, and that he assumes that such effective enforcement is only possible under a sovereign power. It is in the light of these considerations that he concludes that the idea of global justice without world government is a chimera.[21] By implication, therefore, the cosmopolitan call for global justice is nothing but an utopian exercise which is unlikely to yield any practical effect. Nagel's objection to the introduction of justice at the global level does not stop him from advocating for some form of universal action to reduce global inequality and extreme poverty. But as far as he is concerned, such efforts can only be predicated on the argument of beneficence and not the need to satisfy the requirement of justice:

> I assume that there is some minimal concern we owe fellow human beings threatened with starvation on or severe malnutrition and early death from preventable diseases, as this people are in dire poverty... some form of humane assistance from the well-off to those in extremis is clearly called for quite apart from the demand of justice, if we are not simply egoist.[22]

Having laid out Thomas Nagel's Hobbesian argument for rejecting the notion of global justice, we may now evaluate his argument with the specific aim of determining whether he succeeded in demonstrating the irrelevance of the norm of justice at the global arena.

Without doubt, Nagel is correct in highlighting the importance of effective system of enforcement to the actualization of justice. Clearly, where actors, whether individuals or states, can violate the principles of justice with impunity and without being sanctioned, the level of defection may be so massive as to cause the entire system of justice to unravel. Nagel is also right to emphasise the need for individual actors to have "the assurance that others will conform to the principles of justice, if he does."[23] Definitely, if am not convinced that others will conform to the principles of justice, I will have no strong motivation to adhere to the principles of justice myself. In fact, where there is a wide spread scepticism about the compliance of others, the system of justice will necessarily break down.

The weakness of Nagel's argument, nonetheless, is in his insistence that it is only a sovereign power, with the monopoly of the power of enforcement, that can provide the desired assurance that others would comply, or would be sanctioned in the event of non- compliance. It is on the strength of this observation that Nagel concludes that justice will require a sovereign state. Here, Nagel slightly deviates from Hobbes because Hobbes actually leaves some room for external incentives to compliance other than the sovereign state. Hobbes, for instance, explicitly recognises that there was a time "when the spiritual power (the church) moves the member of a common wealth, by the terror of punishment and by the hope of rewards."[24] Beyond the church and the state, and due to certain political developments and massive technological advances, the 20th century has witnessed the rise of numerous powers and institutions whose activities shape and affect the life of people. According to Michael Pendleburry, these include not only local and regional governments as well as more specialised regulative agencies, but also other numerous institutions, corporations and or organizations which are deeply interconnected, affecting every aspect of people's lives, and giving them potent incentives that are needed to ensure that individuals will, for the most part, conform with various standards of conduct. [25]

In the light of this consideration, Pendleburry concludes that:

> Although it is true that external incentive are needed to ensure that individuals will conform to a just or socially desirable conduct, ..., a state that is sovereign in the sense that it enjoys a de facto monopoly of force is not essential for these incentives which could also arise from the power and practices of a network of other institutions along with – and occasionally in place of – those of the state understood as a central authority with significant but still limited power.[26]

Pendlebury's assertions about the rise of multiplicity of non-state actors and organisations, whose activities shape our lives and provide incentives for conformity to social norms, reveal a major shortcoming of Nagel's endorsement of the Hobbesian understanding of international affairs. Nagel, of course, uncritically accepts the typical realist assumption that states are major actors in the anarchical global order.[27] This image of the international political system is definitely and empirically inaccurate,

given the proliferation of powerful non-state actors that populate the global stage today, such as international institutions, regional organisations, multinational corporations and international non-governmental organisations. The presence of these organisations and their activities suggests that the global arena is not in a state of war, in the Hobbessian sense. It is clear that these separate centres of power can co-exist with the state on the global stage, only if there are some forms of accommodation and cooperation.

The world has changed dramatically since Hobbes wrote *The Leviathan* in the 17th century. To continue to emphasise the primacy of the sovereign state, in the Hobbessian sense, is to fail to come to grips with the level of mutual interdependence which profoundly shapes people's chances and opportunities in the contemporary world.

Apparently, realists like Nagel underplay the significance of the extensive and growing corpus of the international norms which regulate international relations in the area of trade, war and the environment. With specific reference to international trade, Pendleburry argues thus:

> It is undeniable that in our world, Hobbes' standard of justice is widely satisfied beyond the confines of individual states, for the extensive international trade that is the hallmark of the global economy depends on widespread honouring of indefinitely many transnational contracts. It would therefore not exist in the absence of reliable worldwide conformity with Hobbe's third 'law of nature', viz, that men perform their covenants made (*Leviathan* p. 3) which he sees as a 'fountain of justice', encouraged and sometimes enforced by and through national governments and international agencies and treaties and this conformity holds across national borders despite the fact that we do not have a world state, let alone one sovereign in any sense. [28]

If Pendlebury's observations are correct, the realists' and Nagel's assumption, that moral norms are irrelevant in the global stage, and that a global sovereign is needed for justice to become practically possible in that area, is certainly incorrect.

Quite apart from the specific criticism that Nagel's Hobbesian assumptions are largely empirically inaccurate, there are a number of problems which bedevil the realists'

perspective in general, problems which cast some doubt on the explanatory accuracy of the theory. We shall briefly discuss two of such problems.

First, it has been pointed out that it is not true that norms and moral principles are irrelevant in international politics, but that they do have some impact on state behaviour. Donnelly hints at this point in the assertion below:

> Even at the global level, norms and institution can have considerable influence. Sovereignty and other rights of states are matters of mutual recognition, not capabilities. Power alone will not tell us which of their rights states actually enjoy... The strong are always constrained by the rights of weak states. They may, of course, violate the rules of sovereignty. But predictions based on, say, the norm of non-intervention are no more 'indeterminate' than those based on anarchy and polarity. And it is an empirical and not a theoretical question whether the logic of rights or the logic of power have frequently accounted for international behaviour. Consider the principles of self-determination which played a central role in creating scores of new, usually weak states. [29]

It is quite instructive that European powers will concede sovereignty to their former colonies, partly because of the influence of the principle of 'self determination'. If the realists were right, the large scale concession of independence to the former colonies will never have happened.

A second criticism of the realists' interpretation of international political relations is its inability to account for the existence of cooperation in that sphere. The image of international relations promoted by realism is that of a group of power-driven, egoistical actors, who are constantly in the state of war against each other. Again, this is not accurately descriptive of the state of affairs in contemporary international politics. Wars and violence do break out between nations, but that is not a regular occurrence, and, as such, it is not the permanent condition of international politics. On the contrary, it is the case that states often engage in cooperative behaviour, and the inability of the realists' position to envisage or explain this is one of its major shortcomings.

In the foregoing, we have been able to show that the objection is mistaken because even if states do not always conform to the principles of morality, sometimes they do. Thus,

the realists' claim that moral norms are irrelevant in the international arena cannot be sustained. Now that we have disposed the realist objection, we can turn to another crucial expression of scepticism about cosmopolitan justice. Here we speak of the 'Nationality objection' which has been strongly defended by communitarians, such as David Miller and Yael Tamir.[30]

Communitarianism on the significance of nationality

What is communitarianism? Although there is a wide disagreement about what qualifies one as a communitarian, at the very core of communitarianism, however, is the belief that community matters.[31] Given the ethical significance which communitarianism attaches to nationality, it expresses an aversion to the idea of global or cosmopolitan justice.[32] It argues that the relationship between community and justice is such that the former is constitutive of the latter. By this it is meant that "the concept of justice depends upon the prior existence of social relationships, which creates obligation of justice by defining its principles, subjects and objects."[33] When individuals do not belong to a common national community, the issues of justice do not arise between them. Applying this kind of reasoning to international relations, the communitarians deny the validity of the idea of global justice, since we obviously do not have a full blown global community akin to the type found in nation states. Frank Garcia expresses the point very succinctly:

> The Communitarian position is that justice is not possible because we lack the sort of social relations on a global level, which makes justice possible in the domestic society. Only in domestic society do we find community, the shared practices, traditions and understandings which help to create individual identity and social solidarity and the sense of a common purpose necessary to support the obligations of justice...unless these kinds of social relationships exist globally, there is no possibility of global justice.[34]

The argument that justice only arises between co-nationals, referred to as the "nationality" objection to global justice, has been most trenchantly and variously articulated by David Miller. Thus, in the analysis that follows, we shall concentrate on

Miller's 'theory of nationality', which attempts to link the "duties of distributive justice so closely to membership in national communities."[35]

To further our understanding of Miller's argument against the idea of global justice, it is important that we outline his characterisation of nationality. According to Miller, a nation is a "community constituted by mutual beliefs, extended in history, active in character, connected to a particular territory and marked off from others by its members' distinct traits."[36] From the above definition, we can identify two elements that define nationality: the empirical and the subjective. The former includes connectedness to a particular territory, a shared history and the distinctiveness of a shared public culture, while the former refers to the subjective perception of mutual belongingness. What is interesting is that all the elements of nationality highlighted above are subject to validation by the subjective beliefs of the individuals who constitute the nation.[37] This is why Charles Jones described nations as 'belief dependent entities'. Thus, for the ideas of connectedness to a territory, the notion of a shared history or even a distinctive public culture, to have any force, individuals must come to believe that these features characterise their relationships. It is only then that we can speak of a nation.

Having outlined the salient features of the concept of nationality, Miller goes ahead to explain why nations generate ethical obligations, which are exclusive obligations to those who are members of the 'in-group', or why nationality grounds circumscribed obligations to fellow nationals and not to the 'distant others'.[38] Of the various reasons why Miller holds that nations are ethically significant or generate particular ethical obligations amongst its members, we will highlight two – the fact of national allegiance and attachment, and national solidarity. First, Miller argues that since people attach ethical significance to national allegiance, it must be the case that this attachment has some ethical significance. As far as Miller is concerned, rather than reject the rationality of nationalist commitment, the philosopher should accept them as given, and build his philosophical framework to incorporate them.

> There can be no question of trying to give rationally compelling reasons for people to have national attachment and allegiances. What we can do is to start

> from the premise that people generally exhibit such attachment and allegiances, and build a political philosophy which incorporates them.[39]

One of the implications of Miller's stress on the importance of national allegiance is that co-nationals owe one another duties which they do not owe others. Or, as Jones puts it, the reality of national allegiances and attachment supposedly proves that "there are good reasons for limiting the scope of obligations of justice to a subset of humanity."[40]

Second, Miller thinks that nations are ethically significant communities because national loyalty can and does provide the foundation for the sentiments of solidarity, which in turn becomes the basis for mutually benefitting collective projects, even where they require significant individual sacrifice. Without the cement provided by national allegiances, society is prone to fragmenting, and individuals will be unwilling to make the sacrifice that redistribution may require. Miller clearly puts a lot of premium on this point:

> ... I want to argue that nationality answers one of the most pressing needs of the modern world, namely how to maintain solidarity among the population of states...that we need solidarity is something that I intended to take for granted here, I assume that in societies which economic markets play a central role, there is strong tendency towards social atomisation, where each person looks out for the interest of herself or the immediate social network. As a result it is potentially difficult to mobilise people to provide collective goods, it is difficult to get them agree to practices of redistribution from which they are not likely to personally benefit, and so forth. These problems can only be avoided where there exists large scale solidarity, such that people feel themselves to be members of overarching community and to have social duties to act for the common good of that community, to help out other members when they are in need.[41]

In essence, Miller implies that in the absence of strong national allegiances which allows for the development of solidarity, it would be near impossible to implement a redistributive scheme.

From this discussion of the ethical significance of national allegiance and attachment, the absolute necessity of solidarity, and the position that compatriots owe themselves duties more extensive than they owe others, Miller provides two major arguments that specifically object to the validity of the idea of global or cosmopolitan justice. According to Tan, these arguments are the *argument from self-determination* and the *argument from national affinity*.[42] The first, the national self-determination argument has two variants. One variant states that nations have sovereign rights over resources which are found in their borders. Therefore, they retain the discretion as to whether or not to share these resources with other nations, and since the idea of global distributive justice seeks to take away this discretion, it should be rejected on that account.

The second variant of the national self-determination states that since nations are expected to take full responsibility for their own economic development, the notion of global distributive justice, in demanding the redistribution of resources from affluent to poor nations, violates the ideal of national responsibility.[43] Here, as in the first variant, the argument is that we must reject global justice so as not to unjustly penalise rich nations and unfairly compensate the poor nations. In the words of Miller, "to respect the self-determination of other nations also involves treating them as responsible for their own decisions they make about resource use, economic growth, environmental protection and so forth."[44]

The second objection to cosmopolitan justice, as we have indicated earlier, is the argument from nationality affinity. Simply put, the argument holds that justice depends upon the prior existence of special associational ties which creates the obligation of justice by spelling out their principles, subjects and objects. According to Miller, such thick affinities or special associational ties are found within territorially-bounded communities such as nation states, and since there are no such globally shared affinities, the idea of global justice does not arise. Inevitably then, the scope of justice must be construed as bounded and limited to nation states. Miller, of course, does not totally foreclose the possibility of global justice. His position allows for the extension of global justice to the global arena, only when thick social affinities and deep bonds are developed at that level. However, Miller argues that:

> We do not yet have a global community in the sense that is relevant to justice...it is therefore unrealistic to suppose that the choice is between distributive justice worldwide and distributive justice within national societies; the realistic choice is between distributive justice of the latter sort and distributive justice within smaller units – families religious communities and so forth.[45]

Miller's argument, undoubtedly, detracts from the idea of global justice. His arguments both for the ethical significance of nationality and his specific objections to global justice have, interestingly, also been rebutted by cosmopolitan-minded thinkers. Let us examine some of these criticisms.

Miller's claim that national allegiance and attachment give rise to ethically significant sentiments, and therefore ought to be uncritically incorporated into political philosophy, has attracted much criticism. Charles Jones has argued that a philosopher is not merely to accept the norms he discovers in his own society; rather, he should subject them to scrutiny, thereby assessing their reasonableness, "it is unacceptable to argue that nations should be valued because people value them."[46] In his book, *One World*, Singer raises a similar objection to the ethics of partiality which is founded on the ethical significance of nationality. He invokes R.M. Hare's distinction between *intuitive* and *critical* levels of morality. Intuitive morality refers to the principles we are aware of and which we often allow to guide our actions without reflection; but when we subject these principles to the scrutiny of reflection and they 'survive', they move to the level of critical moral principles[47.] As far as Singer is concerned, partiality to compatriots represents one of those intuitive moral principles that are widely held but are nevertheless not justified by critical reflection.[48]

If we consider Miller's emphasis on solidarity-creating function of national attachments, we would agree that, indeed, national sentiments can and do create bonds which facilitate our collective existence within national societies. The argument against Miller on this point, however, is that there is no reason why solidarity must arbitrarily stop at the borders of the nation state. Jones has pointed out, for instance, that there is nothing in Miller's arguments to rule out the extension of solidaristic attachment to the entirety of the human race, regardless of national membership.[49] More worrisome, according to Jones, is that Miller's suffers from the fallacy of begging the question

since it defends the idea of co-national priority on the grounds of national sentiments which supposedly foreground redistributive regimes within national states.[50] Obviously, the question begging in Miller's argument further weakens his position if we recall that the national allegiance or sentiment was a social practice uncritically accepted as ethically significant.

With the brief discussion of the objections to Miller's attempt to establish the moral significance of national sentiments, we would now concentrate on the rebuttals of the specific argument that he raises against the notion of global justice. As we indicated earlier, the two specific objectives brought up by Miller against cosmopolitan justice are the argument from self-determination and the argument from national affinity. The argument from national self-determination, taken at face value, appears to invalidate the notion of global justice. At a deeper level of scrutiny, however, the argument is not as persuasive as it seems. The self-determination objection can only be sustained if it is the case that the present global economic order is fair and just. If it is not, it follows that the national self-determination of poor countries have been violated in the first place. Thus, the rich nations cannot defend their unjust acquisition on the account of national self-determination. For instance, Pogge, among others, has demonstrated severally the unjust character of the present global economic order. According to him, the citizens and government of the affluent nations "… are imposing a global institutional order that foreseeable and avoidably reproduce severe and wide spread poverty."[51] If Pogge's stance about the character of the global economic order is anything to go by, then, the self-determination argument cannot hold, unless it can be shown that the background conditions, against which global economic interactions take place, are fair and just.[52]

As it is the case with the self-determination argument against global justice, the argument from national affinity has been vehemently disputed. According to the national affinity argument, justice depends on the prior existence of special associational ties that bind a people together, such as common nationality. In other words, justice can only be relevant within the context of a national community. Since the kind of special ties that bind and bond compatriots together are not found on the global level, it is impossible to speak of global justice. The argument from national affinity, therefore, suggests that it is only shared institutions and nationality that create

obligations of justice. This proposition is certainly a very restricted and narrow view of justice. This is because it is possible to incur the obligation of justice by merely being identified as causally responsible for the infliction of harm, irrespective of whether the perpetrator of the harm and the victim are compatriots or not.

Besides, Benedict Anderson has put a big dent on the "national affinity argument" by describing nations as nothing but "imagined communities."[53] In other words, for Anderson, the idea of national attachments is subjective, one that only lives in the minds of those who see themselves as citizens of the same nation. By implication, the so-called national idea cannot survive rational reflection since they are subjective, imaginary and fictitious. More damaging to the national affinity argument is Beitz' remark that by confining relations of justice to co-nationals, the argument relies on the implausible assumption that the background conditions for transnational economic interaction are just.[54] It goes without saying that if the background conditions of global economic interactions are unjust, there are definitely transnational justice issues.

Another significant objection to the national affinity argument comes from Richard Devetak and Richard Higgot who have demonstrated that the nature of social bonds in the contemporary, globalizing world, is more complex than communitarians are willing to admit.[55] According to the duo, there are no settled social bonds in the contemporary age because "the fabric of the social bond is being constantly rewoven by globalization."[56] The picture that emerges from Devetak and Higgot's analysis of the nature of social bond in the 21st century is that while social bonds or attachments are fragmenting within nation states, significant transnational attachments are being forged. Instructively, the duo are not unaware that the instability of social bonds, occasioned by globalization does have implication for justice.

> The Westphalian "givens" of justice no longer pertain. The forces and pressures of modernity and globalization, as time and space compress, render the idea of stable bonds improbable. If this is the case, how are we to think about justice? When the social bond is undergoing change or modification as a consequence of globalizing pressures, how can justice be conceptualised?[57]

In the light of the observation made by Devetak and Higgot about the instability of social bonds and attachment, our conceptualization of justice in the contemporary world must take into consideration the significant transnational attachments that globalization is making possible. A rounded idea of justice, even from a communitarian perspective, must give recognition to these transnational attachments. If affinities and attachments are no more confined to the national level, then, we can legitimately speak of global justice on the account of the increasing transnationalisation of social attachments.

Walzer's relativism

Having examined Miller's arguments against global justice and their shortcomings, it would appear that the idea of global or cosmopolitan justice must be retained, in the literature, as a basic concept in the study of International Political Theory. However, Michael Walzer, another communitarian, thinks otherwise, and has developed very sophisticated arguments against global justice from a relativist's perspective. To fully appreciate this, however, it would be expedient to provide a brief outline of his general account of justice.[58]

In the *Spheres of Justice*, where Walzer sets forth, most comprehensively, his theory of justice, he begins by rejecting the methodological abstraction. By methodological abstraction, he is referring to the inattention to the cultural constitution of the relevant collective goods, which characterize the works of John Rawls and others, including cosmopolitans. These scholars are wont to insist that the system of distributive justice is one in which ideally rational men and women are forced to choose impartially "in a context where they know nothing of their situation, barred from making particularist claim and are confronted with an abstract set of goods."[59]

In rejecting the methodological abstraction, Walzer provides two major arguments, namely, the conceptual and democratic arguments.[60] The conceptual argument against methodological abstraction follows from Walzer's own analysis of the concept of goods. According to Walzer, goods with which distributive justice is concerned are social goods. By 'social', Walzer is implying that goods do not have brute 'natural' meanings since they only acquire significance though a process of interpretation and

understanding. In other words, the significance of the goods in question is only acquired or defined through a process that is social and not individual. Since the meaning of goods are conceived and created in a manner that is irreducibly social, Walzer further maintains that they will have different meanings in different societies. In short, all meanings, including the meaning of social goods, are culture-dependent. Given this observation, Walzer concludes that any attempt to define the said goods, from a culturally-neutral stand point, is to engage in a methodological abstraction that renders an account of justice premised on such abstraction invalid.

The second objection raised against the methodological abstraction inherent in the universalist theories of justice is the democratic argument. In this argument, Walzer contends that the proper attitude which ought to underlie any theory of justice is a respect for the opinion of mankind.[61] For him, any attempt to derive the principles of justice from a universalist standpoint, or in a manner that is detached from social meanings of the particular community of which the philosopher is a member, will not only make such principles difficult to apply in concrete situations, it will also fail to give proper weight to the opinion of individuals who are fellow citizens with the philosopher.

But what, in Walzer's view, is wrong with the whole idea of a universalist approach which seeks to transcend the traditions, conventions and expectations of a community context in arriving at the principles of justice? According to him, the philosopher who employs the above method in reaching his conclusion is likely to claim a superior status for the said conclusions compared to the opinions of fellow citizens. If the latter resists some or the entire conclusions, he may seek to bypass the democratic arena and have them directly instituted into law. This is why Walzer thinks that the methodological abstraction inherent in the universalist principles of justice are ultimately undemocratic.

With this brief exposition of Walzer's arguments against universalist philosophical theorizing, we have also at once hinted at his relativistic theory of justice. In the paragraphs following, we shall make the theory more explicit. At the very core of Walzer's account of justice is the primacy of social meaning in the determination of justice. According to him, the principles of justice that are supposed to guide the

distribution of various goods in societies are not intelligible in abstraction from existing political communities, since principles of justice which are valid for a given political community are defined by the shared understandings of the political community in question. As Walzer puts it: "Different social goods ought to be distributed for different reasons in accordance with different procedures, by different agents; and all these differences derive from different understandings of the social goods themselves, the inevitable products of historical and cultural particularism."[62]

According to Stephen Mulhall and Adam Swift, this brief quotation from Walzer's *Sphere of Justice* succinctly captures the crucial strands of Walzer's understanding of Justice. On the one hand, the idea that "different social goods ought to be distributed for different reasons point to the "differentiated substance" of the theory. On the other hand, the point that these differences derive from the different understandings of social goods, which are themselves products of specific historical and cultural contexts, highlights Walzer's 'particularistic methodology'.[63] It would be expedient to provide a brief elaboration of these two important strands of Walzer's theory of justice.

The idea of "differentiated substance" in the *Sphere of Justice* is clearly what informs the title of the book. It simply stipulates that different goods constitute different distributional spheres. In essence, unlike the universalist account of justice that proposes a single criterion for the just distribution of social goods, such as need, merit, and so on, Walzer suggests that justice requires that each social good be distributed according to a criterion that is peculiar to the goods under consideration. He holds, for example, that social goods as varied as jobs, leisure, money healthcare, and so on, should not be distributed by only one criterion, else, it would lead to injustice. Thus, he specifies a pluralistic criterion for the just distribution of social goods, a position which comes out clearly in the passage below.

> When meanings are distinct, distributions must be autonomous. Every social good or set of goods constitutes, as it were, a distributive sphere within which only certain criteria and arrangement are appropriate. Money is inappropriate in the "sphere" of ecclesiastical office; it is an intrusion from another sphere. And piety should make for no advantage in the marketplace, as the market place is commonly been understood.[64]

Walzer is particularly concerned about the effect that money would have on society if it allowed the rich to dominate in all spheres. For him, a just and egalitarian society must distribute social goods, such as welfare and healthcare, on the basis of need, and not purchasing power. In short, Walzer's argument here is that "different spheres require different distributions."[65]

We may now consider the second strand of Walzer's relativist account of justice, which is described above as 'particularistic methodology'. This is the idea that the way to determine how particular goods ought to be distributed can only be ascertained by examining how these goods are understood in particular cultures. Put differently, Walzer's stance implies that the principles of justice are based on the shared understandings and traditions which are relative to particular communities. Thus, he claims that a given society is just if its substantive life is lived in a certain way that is faithful to the shared understandings of its members.[66] The implication of Walzer's emphasis on the community-dependent nature of justice is that whatever a society holds to be a just arrangement or distribution is what is actually just. And since these principles of justice will differ across societies, as there are no criteria for determining what is just independently of the societies in which the principles are derived, there is no way to find principles of international justice. As he puts it in a more recent work, the diversity of cultures and the plurality of states make it unlikely that a single account of justice could ever be persuasive across the globe or enforceable in everyday practice.[67]

If we concede the validity of Walzer's conceptualisation of justice as culture–dependent, in the light of the cultural diversity that characterized our world, it would appear that he has successfully demonstrated the incoherence of global or cosmopolitan justice. But are Walzer's premises credible enough? Does his theory possess the necessary internal consistency? To what extent does his conception of justice correspond with practice in the empirical world? These are some of the questions that have been raised by universalists against Walzer's relativist conceptualization of justice. Before we consider the criticisms against Walzer's theory, we shall first examine the general, standard arguments against ethical relativism to which Walzer's ideas about justice are also vulnerable.

Refuting ethical relativism

The first argument against ethical relativism, and by extension against Walzer's relativist notion of justice, is that the variation of moral principles across communities does not necessarily establish the thesis of ethical relativism. This is because in spite of this moral variations across communities, it is still possible that basic and fundamental values hold for every society. In the construction of Charles Jones:

> The supposed deep diversity of moral views around the world is put into question if we distinguish between specific rules followed by particular societies and general principles of which those rules are the manifestations. There may be different ways of protecting the very same values depending on the conditions specific to any given culture. Hence, cultural differences at the level of specific rules could be explained by differences of context of belief rather than differences in exclusive judgments.[68]

A second, and related, argument against ethical relativism has been raised by Simon Caney. Caney specifically demonstrates that the move from ethical disagreement does not necessarily or logically entail ethical relativism.[69] According to him, the fact that people disagree with each other does not imply that there are no better answers, and that ethical relativism is correct. One possibility that ethical relativists do not take into consideration is that some of, or perhaps all, the participants in a moral dispute have mistaken moral beliefs. In Caney's views, unless we think that participants in a moral dispute are infallible, the ethical relativist must grant "that one possible explanation of a deep disagreement is not that there are no universal values but that people are human, after all, and are capable of making mistakes."[70]

On the strength of the above analysis, we must conclude like Jones that the fact of cross- cultural or inter-personal ethical disagreement does not establish the truth of ethical relativism.

A third problem with ethical relativism is that as a philosophical position, it relies on the following suppressed premises: if people disagree about a proposition P, P cannot be correct. In concrete terms, ethical relativism claims that since some affirm Christianity, some others, Islam, and yet, some, agnosticism, there is no single correct

answer. This conclusion undermines ethical relativism, since, quite obviously, there are philosophers who doubt the correctness of ethical relativism.[71] Interestingly, Martha Nussbaum makes a related point. According to her, normative relativism is self-subverting. In asking us to defer to local norms, it asks us to defer to local norms which are non-relativistic. Most local traditions take themselves to be absolute and not relative; so, in asking us to follow the local, relativism asks us not to follow relativism.[72] Having examined some of the standard objections that undermines the doctrine of ethical relativism in moral philosophy, we shall now concentrate on some of the specific arguments directed against Walzer's relativist account of justice.

The first argument questions the implicit assumption in Walzer's understanding of justice, which takes for granted the permanence of global disagreement and possibility of domestic consensus.[73] According to Allen Buchanan, it is an obvious empirical fact that political communities, which constitute the context of justice for Walzer, are not homogenous in the moral values of their members. Yet, these communities manage to resolve their disagreement in order to construct their indigenous systems of justice. The point here is that if domestic societies can resolve their normative disagreement, nothing suggests that the same is not possible at the global level. Buchanan specifically argues that there seems to be little reason to believe that domestic disagreement is more likely to be resolved than an international one, in the long run. And if there is, neither Walzer nor other communitarians are yet to provide any.[74]

Another argument aimed at undermining Walzer's thesis, which equates justice and shared tradition, is developed by Jones.[75] Interestingly, Jones' objection appears to be an inversion of the immediately preceding argument. For Jones, one unsavoury implication of Walzer's position is that if the shared understanding thesis is taken seriously and provides the basis for denying international justice, it constitutes an equally plausible ground for also dismissing the idea of intra-community justice. Quoting Brian Barry, Jones argued that, "there are no shared understanding about justice within any given society," whether domestic or international.[76] If this were the case, any position like Walzer's that makes justice dependent on shared understanding would return the verdict that justice cannot be found anywhere. As Jones sees it, it

smacks of sheer inconsistency for Walzer to deny the possibility of justice at the global level while affirming the notion of domestic justice.

> … if he (Walzer) is correct about international society – he is required to reach similar conclusions about justice within any given nation state. For shared understanding are missing in both cases, so consistency demands that Walzer give the same answer to the question of justice in both sorts of cases. If for Walzer's reasons, there is no international distributive justice, then it follows – if we employ Walzer's argument – then there is no "national" or nation state distributive justice either.[77]

If Walzer's conception of justice paradoxically leads to the denial of justice at the domestic level, then his position is clearly unacceptable. Perhaps, the real point of Jones' argument is that if the lack of shared understanding could not stop philosophers from theorizing justice at the domestic level, it cannot constitute a stumbling for thinking about justice at the global level.

A third objection to Walzer's argument against international justice is raised by Andras Milkos. He argues that, as an evidence that global disagreement about ethical principles are resolvable, we are beginning to witness an increasing reliance on international principles of distributive justice. According to Milkos, beyond the questioning of the presumption that disputes concerning principles of justice are intractable, the positive point can be made "that consideration of distributive justice actually already figure in and increasingly pervade international law and discussions surrounding it."[78] He cites the example of Thomas Franck, who as far back as 1995 has documented a list of areas in international relations, where the idea of justice has been institutionalized. Milkos makes the point explicit in the following passage: "As Thomas Franck has shown, considerations of justice have been institutionalized by being included in a growing number of international norms. This fact indicates that there is some convergence about issues of justice at the international domain."[79] The areas listed by Franck include (1) multilateral lending institutions that provide subsidized loans to reduce poverty in poor countries; (2) multilateral environmental agreements imposing obligations on states to take into account the interest of other countries as well as future generations; and (3) treaties regularizing the use of outer space and the Antarctic, regarding them as the

common heritage of mankind.[80] Given the empirical fact that the consideration of justice already informs some of the treaties regulating international relations, we now have a compelling evidence to convince those who are sceptical about the possibility of global justice.

One final case that could be made against Walzer's account of justice is the undue weight it accords to communal consensus. This raises a cluster of fundamental conceptual and practical problems. First, as Jones points out, the shared meanings, on which Walzer based his theory of justice, are themselves indeterminate:

> It is often unclear what shared understandings are on any given topic. Precisely how do we determine what a community shared understanding about justice are? Do we come to know the shared understanding about the distribution of wealth in a society by determining what the accepted practice are and (historically) have been? Or is shared understanding to be extracted from underlying principles…?[81]

If anything, these questions indicate how notoriously difficult it is to determine the shared understanding which Walzer claims determines what is just or unjust within a given community. Secondly, if we accept Walzer's consensus-based notion of justice, it follows then that cross-cultural criticism is either impossible or illegitimate. Within Walzer's theory, some room is allowed for social criticism, but this is only possible when practices and institutions contradict accepted understandings about what is morally permissible or required. Even if the immediate point is conceded, the argument still remains that cross-cultural criticism is ruled out by Walzer's theory of justices, while intra-communal criticism is severely limited in scope as to make possible any radical change beyond tinkering with the status-quo.

Another problem that issues from Walzer's emphasis on community consensus is that it misrepresents the task of the philosopher. Rather than critically appraise or scrutinise the shared understanding of the community, Walzer enjoins the philosopher to uncritically accept his community's pre-philosophical shared understanding as the basis of justice. It is for this reason that Jones accuses Walzer of privileging the political above the philosophical.[82] Jones' criticism of Walzer in this respect is quite telling:

> It is no refutation of moral claim to say that there is no consensus in its favour in every culture in the world, nor is a moral claim plausibly defended by citing only its widespread appeal (…) moral views are judged not by determining how many people (or cultures) subscribe to them but by the plausibility of the reasons adduced in their favour. Simply put, it is philosophical plausibility that grounds moral claims and not political popularity.[83]

If we accept Walzer's implicit instruction that the philosopher should "stand in the cave" and mainly interpret our shared meanings to fellow citizens, philosophy loses its character and lapses into irrelevance.[84]

One more problem with Walzer's undue emphasis on community shared understandings as the foundation of justice is that in denying that these are community-independent positions that are relevant to justice, it becomes impossible to authoritatively adjudicate when there are disagreements about justice even within a community. To see how an emphasis on shared understanding or 'context' could be problematic, consider Anna Ek's observation that if we accept context (or shared understanding) as the foundation of justice, what happens when, for example, large scale immigration occurs? Is it not then the case that the context becomes filled with 'new' contextual perceptions?[85]

To further develop Ek's position, we can imagine that there are two societies with equal number of population. Society '1' holds that slavery is just while society '2' believes that slavery is unjust. Let us further imagine that 50 percent of the population in society '1' moves into society '2', and vice versa, so that we now have the population of both societies equally divided between those who hold that slavery is just and those who believe that slavery is unjust. The crucial question at this point is: what is the position of the societies under consideration about the justice of slavery? Obviously, this is a complex situation, and the question cannot be answered by appealing to context or shared tradition. It would appear that in settling this question, we would have to look beyond the context and appeal to context-independent reasons or ideas.

We could proceed with a catalogue of the weaknesses of Walzer's relativistic account of justice, but those already highlighted so far definitely would suffice to demonstrate

that there are fundamental problems with the Walzer's conception of justice. If Walzer succeeds in making his case that justice is community–dependent, given the diversity of communities in the world, he could justifiably claim that it would be impossible to develop a trans-cultural account of global justice. The objections which have been

raised against Walzer's position, however, indicate that he has failed to prove his case beyond any reasonable philosophical doubt. Interestingly, anti-cosmopolitan argument comes in different shapes and hues. As we have already seen, there are realists, communitarians, and the relativist arguments and objections to the notion of cosmopolitan justice. Before we bring this chapter to an end, we must critically examine one more sophisticated objection to cosmopolitan justice from the 'society of states' perspectives. Since John Rawls is the prominent exemplar of this tradition, we shall focus on his version of the argument.

Rawls' objection to cosmopolitan justice

As we mentioned in Chapter Two, Rawls' theory of justice has been adopted as the very foundation of the account of global justice. Pogge and Beitz in particular have employed Rawl's premises to construct global justice. The duo is of the view that if Rawls must take the theory of justice to its logical conclusion, then, he must apply it to global relations. Rawls has, however, consistently refused an international extension of his principles of justice. For him, the principles of justice are exclusively applicable to liberal constitutional democracies.[86] In 1993, Rawls published a paper, 'The Law of the Peoples', which sets forth some tight argument to demonstrate why the principles of justice cannot apply transnationally.[87] By 1999, Rawls had developed the article into a full-blown book.[88] Again, in this book, Rawls resisted the extension of the principles of justice to global sphere; instead, he opted for the duty of assistance which in effect defines the limits of obligation of the affluent to the poor, to humanitarian aids. In adopting the duty of assistance as the guiding principle for the foreign policy of affluent nations, Rawls appeared to have relegated to the margin the regulation of socio-economic inequalities that animates much of the discourse in *A Theory of Justice*.

In order to provide the background to Rawls' objection to the idea of cosmopolitan justice, we will provide a brief overview of *The Law of Peoples*. At the beginning of the

book, Rawls makes it clear that his specific aim is to work out "how the context of the law of the peoples might be developed out of the liberal idea of justice similar to, but more general than, the idea of justice as fairness.".[89] To arrive at this, he identifies five types of societies of people – liberal, decent hierarchical, outlaw, burdened and benevolent absolutist. He argues for a set of principles which representatives of liberal people will adopt to govern their association in conjunction with the other four types of society.

Rawls structures his argument in *The Law of Peoples* into three parts. In the first, he derives the international principles that would be subscribed to by the representatives of liberal societies at the global original position. The second, which is, perhaps, the most significant position of *The Law of peoples*, aims to demonstrate why the representatives of well-ordered, but non–liberal, societies would endorse the same principles. The first two stages cover what in Rawls' terminology is the ideal theory part.[90]

In the third part, the non-ideal section of *The Law of Peoples,* Rawls addresses two special problems in the world as it is presently constituted. One is the problem of non-compliance that may arise when outlaw states refuse to adhere to the law of the peoples. The other is the problem of unfavourable conditions, as exemplified by burdened societies whose essential characteristic is that they lack the requisite resources that could enable them to become a well-ordered society. [91]

Employing the social contract approach, which he popularised in *A Theory of Justice*, Rawls constructed two original positions where the representatives of the people, rather than individuals, as found in the theory of justice, deliberate under the veil of ignorance to choose the principles of justice that will regulate their mutual relations. The first global original position which involved only representatives of liberal societies yielded eight principles. Below is the abridged version of the principles:

1.) The peoples are free and independent.

2.) Peoples are to observe treaties.

3.) Peoples are equal and are parties to the agreement binding on them.

4.) Peoples have a duty of non-intervention.

5.) Peoples have the right of self-defence, but not the right to wage war other than for self-defence.

6.) Peoples are to honour human rights.

7.) Peoples are to observe justice in war.

8.) Peoples have a duty to assist peoples lacking the resources to sustain just regimes.[92]

According to Rawls, this list only represents the minimum set of principles which will be grounded in the original position involving liberal societies. Thus, he concedes that other principles may be added.[93] In the second original position, Rawls shows that the representative of the non-liberal, but well-ordered, societies will endorse the same set of principles listed above. The non-liberal societies are so addressed because they do not recognise all the plethora of the civil liberties that are usually associated with liberal democratic societies. They, nonetheless, recognise basic human rights, such as right to life, security and subsistence. Beyond this, they accord the necessary respect to other people.[94] It is for this reason that Rawls argues that liberal societies are not only to tolerate decent non-liberal societies but also recognise these non-liberal societies as equal participating members in good standing of the societies of the people.[95]

But, what argument does Rawls provide for supposing that the decent non-liberal societies will endorse the same law of the peoples as those chosen by liberal societies? Here is Rawls' justification:

> Decent hierarchical people are well ordered in terms of their own idea of justice...this being so, I submit that their representatives in an appropriate original position would adopt the same eight principles as those I argued will be adopted by the representatives of the liberal societies. The argument for this is as follows: decent hierarchical people do not engage in aggressive war; therefore their representatives would respect the civic order and integrity of other people and accept the symmetrical situation (the

> equality) of the original position as fair. Next in view of the common good ideas of justice held in decent hierarchical societies, the representatives strive both to protect the human rights and the good of the people they represent and to maintain their security and independence. The representatives care about the peoples' benefit and also accept the idea of assistance among people in time of need...in view of this reasoning, we can also say that the members of decent hierarchical societies would accept - as you and I would accept – the original position as fair among people and would endorse the law of the people as specifically fair term of political cooperation into other people. [96]

In this passage, Rawls, in effect, argues that both the representatives of the decent hierarchical societies and their members will accept the eight principles that constitute the law of the peoples. With this extension of the law of the peoples to decent hierarchical societies, we are left with the question of how liberal societies are to relate to burdened societies and outlaw states. According to Rawls, liberal states owe a duty of assistance to burdened societies who lack the political and cultural tradition and necessary economic resources to be well-ordered. However, in no cases do the obligations of the law of peoples extend to relations with outlaw states. In fact, Rawls sanctions the position that liberal societies can embark on a just armed aggression against outlaw states if the latter threatens their security and safety.[97]

From the point of view of global justice, what is significant in *Law of Peoples* is that Rawls, in line with his earlier writings, refuses to extend his principles of distributive justice. Instead, he advocates the duty of assistance which requires that liberal and decent societies should provide assistance (however defined) to burdened societies in order to enable the latter to achieve a level of economic and social development to become ordered. By affirming the duty of assistance, and explicitly denying the relevance of global distributive justice, despite the glaring radical inequality which characterise our world, Rawls opens himself to severe criticism from cosmopolitan egalitarians who are convinced that the global order, as presently constituted, is unjust. Before we explore the volume of criticisms which have been brought against Rawls, it is important that we explain why Rawls rejects the concept of global distributive justice.

Rawls provides two major objections, and a host of some minor ones to the idea of global or cosmopolitan justice. This would require that individuals, irrespective of their state or societal affiliation, become the primary unit of moral concern. For that reason, they would choose to extend the principles of justice globally in order to protect the interest of individuals everywhere.

According to Rawls, the first objection against global justice is that since the law of peoples derived from the global original position already incorporates the duty of humanitarian assistance, principles of global distributive justices will be superfluous or redundant. 'The redundancy argument', as Tan labels it, assumes that radical inequality and world poverty are taken care of by the injunction in the law of peoples that require that well-ordered people assist burdened societies to bring them into the society of well-ordered peoples.[98] As far as Rawls is concerned, the goal of stemming extreme injustice, crippling poverty and inequalities in the contemporary world would be guaranteed by the duty of assistance.[99]

Beyond the redundancy argument, Rawls argues *ala* Miller that the introduction of global distributive principles, into the law of peoples, will violate or undermine the much hallowed principle of self-determination, as affluent nations will be unjustifiably compelled to redistribute resources to poor countries. To illustrate his point, Rawls asks us to imagine two liberal or decent countries that kicked off with the same level of wealth and population. Society "A" decides to industrialise and increase the rate of savings while society B settles for a rather pastoral and leisurely lifestyle. Rawls further asks us to suppose that decades later, that country "A" is twice as rich as country "B." Given the trajectory of the two countries, Rawls concludes that since global distributive principle will require the transfer of resources from country "A" to "B," such an arrangement will unfairly burden countries that have become prosperous due to their industriousness. As Rawls sees it, the arrangement is all the more unfair, given there are no cut-off points or set limits regarding how much can be transferred from rich to poor countries. Thus, applying the global distributive principle would have the unfortunate consequence of sanctioning the transfer of resources to poor countries "as long as the wealth of one people was less than that, of the other."[100] For Rawls, this is

totally unacceptable because it would amount to penalizing some societies in order to compensate for the poor policies of others.

Underlying Rawls' objection to global justice, based on the violation of the principle of self-determination, is his belief that the crucial determinant of a society's socio-economic well-being are largely internal factors and of policies which are freely adopted by the governments of low-income countries. Rawls specifically draws attention to society's political culture, its religion and moral tradition as well as the existence of a civic society as the decisive internal factors that shape the economic fortunes of societies.[101] Presumably, Rawls' point here is that since global factors are not implicated in the creation of society's poverty, the question of global justice does not arise.

Rawls' emphasis on internal factors as being the determinant of society's socio-economic wellbeing has been dubbed by Thomas Pogge as 'explanatory nationalism'. He, however, rejects the accuracy of such a position. We shall discuss Pogge's criticism of explanatory nationalism in a more detailed fashion shortly. Meanwhile, we shall examine one more rationale behind Rawls' refusal to incorporate global distributive principles into the law of peoples.

Rawls' third argument against global distributive justice is built on the claim that non-liberal societies would reject liberal distributive principles, since they do not accept liberalism. According to Rawls, the law of peoples will have greater appeal if the egalitarian conception of justice is left out, since we "cannot suppose that hierarchical societies will find such principle (i.e, difference principle) acceptable in dealing with others peoples."[102] By this, Rawls submits that since hierarchical societies reject the principle of egalitarian justice in their internal arrangement, they will, by that same fact, reject it in their external dealings. Rawls further argues that the principle of toleration, which is central to liberalism, requires that an egalitarian conception of justice be not imposed on non-liberal societies. Thus, in the end, the principle of toleration prevails over the idea of egalitarian distributive justice.

If we put all of Rawls' objections against global justice together, it would appear that they detract from the validity idea of global justice. If Rawls was right, for instance,

that explanatory nationalism captures the decisive factors that determine society's socio-economic wellbeing, the idea of cosmopolitan justice, then, necessarily becomes a misnomer. And if it is true that wealth transfer from wealthy states to poorer ones unfairly burdens countries that have become prosperous by the dint of hard work, then, the idea of resource transfers to reduce extreme poverty and global inequalities loses its normative appeal. Rawls' arguments, however, have not gone unchallenged. Pogge, Bietz, and other cosmopolitans, have taken up the gauntlet in their bid to demonstrate the inadequacies of Rawls' objections to global justice. We shall now examine the responses of cosmopolitan, and other egalitarian, thinkers to Rawls.

Refuting Rawls

The redundancy argument, which claimed that since the law of the peoples already contains a provision for the duty of assistance, there will be no need for a global distributive justice, has been criticized by Tan and others. Tan, for instance, rejects Rawls' arguments on the grounds that his position blurs the distinction between duties of humanity amd the duties of justice. As far as Tan is concerned, the two forms of duties, in principle, can be mutually exclusive. Hence, one does not eliminate the other. On the other hand, to advocate just for the duties of assistance is to assume that the background conditions for the distribution of burden and benefit across the world are just. Tan observes:

> ...but this argument obscures an important difference between duties of humanity and duties of justice, a difference that is more than semantics. If we accept that rich countries have only a duty of humanity to poorer countries, we are also accepting that the existing baseline resources and wealth distribution is a just one, and that global basic institutions, organized around and legitimizing prevailing allocation of wealth and resources are acceptable. [103]

In essence, to accept that Rawls' duty of assistance renders global distributive justice redundant is to confuse the rationale and the aims of the principle of assistance with the principles of justice. While, for instance, the duty of assistance defines how states would interact with one another, given the discrepancies of political cultures between them, the duty of justice at the global level evaluates the norms governing the

allocation and ownership of wealth and resources which underlie this interaction. Brian Barry puts the point slightly different when he says that justice is prior to humanity since we "cannot sensibly talk about humanity unless we have a baseline set by justice. To talk about what I ought as a matter of humanity, to do with what is mine makes no sense, until we have established what is mine in the first place."[104]

From Barry's argument, humanity, or the duty of humanitarian assistance, can only make sense if the question of justice is settled. Thus, while we accept Rawls' claim that decent societies ought to assist burdened societies, so that the latter may ultimately make the transition into membership of societies of good standing, the duty assistance does not cut deep enough because it still leaves the issue of just distribution of resources across societies unaddressed.

Rawls' second argument against global distributive justice rejects the former on the ground that it will violate the self-determination of rich countries, as well as unfairly burden such countries, in order to compensate for the poor policies of low income countries. Implicit in Rawls' self-determination argument against global distributive justice is the assumption of the accuracy of explanatory nationalism. This is the view "that the world poverty today can be fully explained in terms of national and local factors."[105] In response to Rawls, critics, such as Pogge, have demonstrated that explanatory nationalism is highly questionable. For Pogge, the substantial differences in economic development of nations and the high incidence of poverty do show that "nationalist explanations" must play a role in explaining national trajectories and international differentials."[106] 'From this', Pogge continues, 'it does not follow, however, that the global economic order does not play any substantial causal role by shaping how the culture of each poor country evolves and by influencing how a poor country's history, culture, natural environment affect the development of its domestic institutional order'.[107]

If explanatory nationalism was wrong, in the sense that global factors do contribute to the differentials of wealth and poverty that we find between nations, then, it seems most appropriate to develop an account of distributive justice that would offset inequities promoted by global factors. Tan puts the point poignantly: 'Distributive arrangement

between societies needs not to be insensitive to choice, then, if the distributive goal is to offset the effects of these unchosen global factors and not the effects of chosen national policies....'[108] Goran Collste also lends his voice to the idea that global factors play a crucial role in determining the economic trajectory of poor countries. He argues that the global gaps, that is, the massive differentials between the affluent and poor countries, have a lot to do with colonialism and imperialism.[109]

Another major problem with Rawls' second argument against global justice is the blind emphasis that Rawls puts on peoples rather than individuals. In emphasizing self-determination and explanatory nationalism, the citizens of disadvantaged countries are made liable for their country's unsound domestic economic policies, even when it is a well-established fact that the citizens in these poor countries hardly take any meaningful part in the shaping of these policies. This certainly cuts against the grain of the moral individualism found in *A Theory of Justice* where Rawls speaks of the inviolability of each individual which is founded on justice.[110] Again, Tan aptly describes the shift by Rawls from moral individualism, in *A Theory of Justice*, to international communitarianism, in *The Law of Peoples*: "Collective national decisions are regulated and constrained by principles of justice that take the individual to be the basic reference point in the domestic context; yet in moving to the international context, the same restriction no longer apply."[111] In other words, Rawls' emphasis on people rather than individuals, in *The Law of Peoples*, deflects the individuals from being the main unit of moral concern, with the unfortunate implication that distributional arrangements that affect them are overlooked.

The third argument, which we have already considered above as one of the reasons Rawls rejects global distributive justice, is Allen Buchanan's quote: "The misdirected charge that anyone who proposes principles of distributive justice for inclusion in the law of peoples transgresses the bound of toleration by imposing liberal principles on well-ordered illiberal societies."[112] Simply put, the principle of toleration, which is central to liberalism, precludes the imposition of liberal principles of egalitarian justice on non-liberal societies. In Rawls' estimation, the law of peoples, premised on the ideal conception of individuals as being free and equal, would make the basis of the law 'too narrow'.[113] Consequently, non-liberal societies are likely to object to an international

theory of justice founded on the cosmopolitan ideal. The claims made by Rawls have become a point of deep contentions and criticism. Collste, for instance, has argued that Rawls' exclusion of the difference principle, on the account that it will amount to imposition of an egalitarian principle on non-egalitarian societies, is anything but convincing. This is partly because Rawls has, in his earlier writing, sought to demonstrate the general applicability of the difference principle. Collste observes:

> In fact, Rawls himself argues for the possibility of a wider acceptance of the difference principles in another text! The difference principle is not solely a liberal principle, he states in the "Idea of Public Reason Revisited" (1999) but can be justified by an overlapping consensus. From the points of view of a Christian doctrine, Rawls argues it can receive support from the parable of the Good Samaritan. Furthermore, it is "… giving a special concern for the poor, as in a catholic social doctrine", Rawl's writes. Obviously, Rawls view in 1993, that the difference principle is a particular liberal principle, is not consistent with his view in 1999, that it can be justified by an overlapping consensus.[114]

Beyond the question of inconsistency, some critics of Rawls have gone ahead to argue that his assumption that non-liberal societies will reject liberal distributive principles as part of the law of peoples is untenable. Tan, in particular, has taken Rawls to task on this assumption. He contends that Rawls' claim that non-liberal societies will reject egalitarian distributive principles between nations is a hasty conclusion, since it makes perfect sense for societies that reject egalitarianism in their internal arrangement to expect egalitarian treatment in their external relations. The force of Tan's argument is better appreciated in his own words:

> It is not clear why the rejection of liberal principles has to be an all-or- nothing affair. Just because non-liberal societies rejects (as they likely would) liberal principles pertaining to full range of liberal civil and political rights it does not accept as relevant, say the ideals of free association and expression, cannot nonetheless endorse global principles that will distribute resources more equally between societies… To put it simply, non-liberal societies can accept, as principles governing of economic justice even as they reject liberal principles of political justice."[115]

To buttress his case further, Tan writes in his footnote that the argument that non-liberal societies will endorse the principle of economic justice actually describes the real world where "non-liberal developing countries want more financial assistance from the developed world (economic equality) while resisting pressures from the developed world that they liberalize their political institutions."[116]

Interestingly Tan is not alone on the position that non-liberal peoples will accept the principles of distributive justice as a fundamental element of the law of peoples. Allen Buchanan has argued along similar lines. He provides two powerful reasons why parties who represent people (including non-liberal societies) will choose principles of justice for the "global basic structure."[117] First, he argues that if we follow Rawls' strategy of having the parties who choose the principles of the law of peoples to represent peoples, then, it is presumed that such representatives are aware of the global basic structure and its distributive effects on their societies. This being the case, Buchanan reasons, "in their capacities as representatives of peoples, each party will be concerned to ensure that the global basic structure's distributional effects do not impede his society's capacity to achieve its own conception of justice or of the good."[118] Second, Buchanan appeals to Rawls' *Theory of Justice* that just like parties, in the domestic original position, are represented as "free and equal" and will choose egalitarian principles to avoid being relegated to an inferior position, "parties to the choice of law of the peoples would be concerned to choose principles that would ensure fundamental equality for their societies vis-à-vis other societies."[119]

From the foregoing, it is clear that Rawls will have to provide additional argument for excluding the principles of egalitarian distributive justice from the law of the peoples. All the arguments that he provides for refusing to extend the principles of justice to the global sphere, from the redundancy to the toleration argument, have been dented by the critical responses which we have discussed above. Thus, we might be justified in our position that in spite of Rawls' objection to cosmopolitan justice, the latter appears to remain relevant, particularly in the light of deep inequalities and widespread poverty within and between the countries in the contemporary world.

Conclusion

In this chapter, we have outlined and discussed the plethora of objections which have been raised against cosmopolitan justice, which might for the purpose of analytical convenience be described as anti-cosmopolitan. We have examined the position of the realists, a rejection of any talk of justice, or indeed morality in general, in global relations, on the ground that morality is irrelevant to international relation, since states exclusively pursue national interest and power within the global anarchical order. Our response was that the image of international Hobbessian order, promoted by the realists, is anachronistic. To borrow a phrase from Buchanan, the picture of the world painted by the realist is that of vanished westphalian order.[119] Our point, of course, is not that states are no more crucial actors on the global stage and that they have suddenly become altruistic. Rather, our contention is that the global stage has become populated with a critical mass of non-state actors and that states pursue the nationalist interest and power, with the constraint of the growing corpus of international norms and conventions. To Nagel's particular charge that there is no global sovereign to enforce global justice, we have shown that there is in the world today a network of countervailing centres of power that makes for some considerable level of enforcement, such as the World Trade Organisation, the United Nations and myriad of organizations that make up the global justice movement.

We have also examined Miller's argument against global justice, which emphasized self-determination and national affinity. Our response to Miller's argument is that national self-determination is only meaningful within the context of just background conditions which guarantee that the self-determination of economically disadvantaged states has not been violated in the first place. We also submitted that national affinity, which Miller considered as the ground of justice, does not pass the test of logical scrutiny to the degree that nationality is imagined, as Anderson is wont to argue. More importantly, we have demonstrated that Miller's conceptualization of national affinity is simplistic. The truth remains that globalization has complicated the character of national attachment such that while national attachments are fragmenting within states, in another breath, social bonds that transcend the borders of the state are being forged.

We also examined Walzer's relativistic and quite sophisticated arguments, which he raised in objection to cosmopolitan justice. He is of the view that, given the fact of cultural diversity, it is virtually impossible to develop an account of justice which will be persuasive across cultures.

In response to Walzer, we have argued that cultural diversity does not necessarily rule out the development of trans-cultural account of justice. We showed that principles of global justice already inform some of the norms presently regulating global relations, for example, the Kyoto agreement.

Finally, we examined Rawls' argument which seeks to reduce the issues of global justice to a mere duty of assistance to burdened societies. As we have demonstrated, the duty of assistance and that of justice are quite separate duties; thus, they are not coterminous with each other. We have also highlighted the argument of Buchannan and Tan who provided powerful reasons why the principles of global distributive justice ought to be incorporated into the law of peoples.

It appears that cosmopolitan theories could actually deflate all the objections that have been levied against global justice by the anti-cosmopolitans. In this case, the idea of global or cosmopolitan justice will continue to hold its attraction for those who are interested in the institutionalization of a more just global economic order. However, as we have highlighted in the second chapter, some sceptics are of the view that cosmopolitan justice is highly demanding. This is because it ultimately sanctions the redistributions of resources from the affluent to the poor nations. In the next chapter, we shall develop a minimalist account of justice, one that emphasises rectification rather than redistribution.

Endnotes

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CHAPTER FOUR

A MINIMALIST ACCOUNT OF GLOBAL JUSTICE

Introduction

In the preceding chapter, we examined most of the objections to cosmopolitan justice. In this chapter, we shall attempt to provide an account of global justice that could command wider acceptance across philosophical schools and cultural divides. This present chapter, therefore, intends to construct a minimalist account of cosmopolitan or global justice. It is structured into three main parts. In the first, we shall deal with preliminary conceptual issues. Here we shall attempt to bring to the fore the conception of "harm" adopted in this work, provide a general discussion of the nature of duty and obligation, and demonstrate the universality of the duty not to harm. In the second part, we shall examine the principle of rectification in the works of Aristotle, Robert Nozick, and others, in order to demonstrate that rectification is a long standing principle of morality in philosophical reasoning. In the final part, we shall attempt to construct a minimalist account of cosmopolitan justice from a combination of the notion of harm and rectification.

What is harm?

As it is with most concepts in philosophy, the notion of harm can take on multiple and divergent characterizations. Given this fact, the idea of harm could be fraught with ambiguities, confusions and disagreements. It, therefore, becomes imperative to begin our analysis with a working definition of harm, as it relates to the study, since our discussion of a minimalist account of justice is premised on the generally acclaimed negative duty not to harm.

Webster's Comprehensive Dictionary of English Language defines 'harm' as "that which inflicts injury or loss."[1] The Oxford English Dictionary defines the concept, in a

similar but more comprehensive manner, as "damage or loss that is caused by a person on an event."[2] From these definitions, it appears that harm is an injury which ought not to be inflicted on others. However, there are occasions when harm becomes necessary. An example is when the punishment for crime entails imposition of harm on criminals. This is definitely a justifiable exception to the rule that we ought not to harm others. The realization that there are permissible or justifiable harms demands that we sharpen our conceptualization of harm. Thus, to build on the dictionary definitions offered above, we might say harm involves the unjustifiable and intentional imposition of damage, injury or loss on some individuals or group of individuals. The damage or injury in question is not necessarily limited to a physical one.

The notion of harm could be more broadly conceived. It is this understanding which perhaps underpins Richard Shapcott's characterization of harm as "the violation of core interest in physical and mental wellbeing."[3] He explains further that the duty not to harm, or the harm principle, is primarily a negative duty of harm limitation or avoidance. Thomas Pogge refers to harm as avoidable negative change in one's circumstances over time. In Pogge's words, "someone is harmed when she is rendered worse off than she was earlier, or than she would have been had some earlier arrangement continued undisturbed."[4] Thus, if any of our actions or inactions has the direct effect of leaving a person(s) worse off, it could be said that we have inflicted harm. A little bit of clarification is needed here. To declare that my inaction is capable of leaving another person worse off may not be construed to imply that all our inactions are responsible for harming 'others'. It is only when my inaction directly contributes to, or could be said to be causatively responsible for, the harm that I become morally blame-worthy. To take an example, consider that I am an aeronautic engineer and I have been asked to conduct a routine check on a passenger plane that is about to fly. If I discover that the plane is unfit to do so successfully because of certain rusty parts of the engine, and I fail to warn the pilot, and the plane eventually crashes and kills all the passengers after a few minutes in the air, it is clear that my omission or inaction has harmed those who lost their lives in the crash.

Beyond seeing harm as an incidence that leaves the victim worse off, it is sometimes conceptualized in the language of rights. Thus, the natural rights liberal conceives of

harm as a violation of one's right.[5] Interestingly, by invoking the notion of rights in the definition of harm, the idea of duty is necessarily implicated, for much of the literature on the subject suggests that, here, rights are no rights without corresponding or correlative duty.[6] Or, as Ernest Partridge puts it, the above assertion suggests that… the propositional form "x has a right claim upon y" is equivalent to "y is duty bound (or obligated) to x."[7] Louis Pojman makes the same point with unmistakable clarity: "Rights are typically relational in that we have them against other people. If I have right against you regarding x, you have duty to me regarding x. If you promise to pay me $10 for cutting your lawn and I have done so I have right to that $10 and you have a duty to pay me."[8]

From this general idea of the correlation between rights and duties, we may infer that if there is a right not to be harmed, or not to have one's rights violated, there is a corresponding duty on the part of others not to harm me or have my rights violated. This leads us back to the generally recognized principle that we owe all humans the negative duty not to harm them. In other words, we are obligated by the principle to refrain from knowingly inflicting unnecessary and unjustifiable harm on others. To further appreciate the conceptual implication of the 'duty not to harm others', it would be helpful to explore the nature of duty (or obligation) in some detail.[9]

The nature of duty

From a purely etymological standpoint, the word 'duty' is often associated with actions that we deem are due to a specified "other" or someone else. These may include, as Joel Feinberg observes, the payment of debts to creditors, the keeping of agreements and promises, the payment of club dues or legal fees, or tariff levies, to appropriate authorities or their representative.[10] Regardless of the illustrative examples that we might choose, the common denominator is that duties are actions or perhaps inactions which are required by law, by morality or by social conventions. Thus, we may distinguish between legal duties, moral duties, and social duties.

Legal duties refer to those actions which are required by law, actions whose violations normally will attract sanctions and punishment. Moral duties, on the other hand, denote appropriate behaviour towards others which is required by moral principles. As Ernest

Partridge puts it, legal duties are characterized by the threat of institutionalized sanctions. If a person fails to do a certain thing required by law, the legal machinery may be used to coerce him.[11] Moral duties, on the other hand, may be viewed as actions which are morally mandatory and for which an individual may be morally condemnable if he fails to perform without justification. According to Brandt, there are four primary features that characterize moral duties. These are:

a.) It must be a matter of conscience. This implies that save for a situation where an agent is properly excused by a legal justification, failure to perform such action will give rise to feelings of guilt in the agent and moral disapproval by observers.

b.) Failure to perform in the absence of adequate excuse reflects the character of the agent in question.

c.) The requirement to carry out the demand of duty is not merely out of the consideration of prudence or convenience but a matter of principle.

d.) Related to the last point is that the requirement of duty possesses stringency over and above claims of manners, customs, taste, law and courtesy.[12]

From the foregoing, it is clear that while the breach of legal duties may attract external sanction, the breach of moral duty is not without sanction. In fact, from the point of view of the feelings of guilt that is brought about by such breaches, it could be said that moral duties could impose internal forms of sanctions.

Duties of justice/duties of charity

Our focus in this discussion is on moral duties, since the concept of non-harm falls within this rubric. Interestingly, however, the literature on duties tends to distinguish between two major types of moral duties – the duties of justice and the duties of charity. In what follows, we will quickly outline these basic distinctions with the aim of demonstrating that the harm principle, or "non-harm" idea, is a duty or the requirement of justice. Before we proceed, however, to the fundamental distinctions between the duties of justice and the duties of charity, it is necessary to make an observation. Some may argue that the phrase "duties of charity" is rather paradoxical given the

presupposition that the actions of charity or beneficence are often seen as supererogatory and not necessarily obligatory. To this argument, we must quickly respond, following Buchanan, that 'duty', here, is employed in a broad and general manner to refer to "whatever is expressed by a moral imperative, a judgment about what ought and ought not to be done."[13] In essence, duty is conceived as action that is in any sense morally required.

Now that we have clarified further what is meant by duty, we may go on to examine the fundamental distinctions between the duties of justice and the duties of charity[14.] The first major difference between the duties of justice and those of charity is that while the former creates, or correlates with, a system of rights, the duty of charity does not. For this reason, it is often assumed that the duties of justice are weightier and more stringent than the duties of charity. If I have a duty, for instance, to refrain from interfering with the privacy of others, it means the latter have a right not to have their privacy tampered with. The stringency of the duties of justice is brought to the fore when we define rights as entitlement or claims which cannot be taken away without cogent justification. If the principle of justice foregrounds a system of rights, all that the principle of charity demands is the duty to provide aid to the disadvantaged, or the vulnerable, from resources that are legitimately one's. It follows then that if one fails to provide charity or aid, one cannot be accused of violating anybody's right, but failure to perform acts required by justice will necessarily amount to a violation of some specific right. It is for this reason that the performance of charitable acts can be regarded as morally praise-worthy, even when the non-performance of such acts is not regarded in common morality as morally condemnable.

To further underscore the greater stringency of duties of justice *vis-a-vis* duties of charity, we must examine their sensitivity to personal cost.[15] Put more explicitly, duties of charity are more sensitive and can be limited by personal cost to an agent whereas duties of justice are obligatory, even when the agent incurs very high cost. To illustrate the point with an example from Laura Valentini, as a young musician whose only valuable property is an old piano, a person cannot be said to have a duty to sell the piano in order to donate the proceeds to a charitable organization. What the duties of charity require would be a lesser sacrifice. Thus, what charity requires is limited by the

level of the cost such acts impose. If, on the other hand, a person incurs a debt which could only be repaired by selling the piano, he/she would only be fulfilling his/her duties of justice to enable him pay my creditors.[16]

The second major distinction between duties of justice and charity is what Sylvia Loriaux describes as the perfection/imperfection dichotomy.[17] This dichotomy, which is found in the works of thinkers as divergent as Kant and Mills, holds that the duties of justice are perfect while duties of charity are imperfect.[18] The duty of charity is described as imperfect because it is characterized by a definite indeterminacy which makes its enforcement difficult. In the words of Loriaux, "the duty of charity is labeled as "imperfect" duty in the sense that it does not specify precisely who must perform what actions, towards whom, in what way and to what extent. And because it is difficult precisely to determine when someone did not fulfill his duty to help, no right to be helped can be recognized."[19] In contrast to the duties of charity, the duties of justice are regarded as perfect duties because the duties bearers, as well as the recipients, are clearly spelt out. This makes it possible for breaches to be easily identified, and for enforcement to be possible. In the final analysis, what makes the duties of charity imperfect and the duties of justice perfect is the degree of specification with respect to bearers, recipients and duty's content.

The question is often asked as to whether the indeterminacy that is characteristic of imperfect duties can be transcended with the emergence of an appropriate institution, an arrangement which then facilitates the specification, the distribution and the enforcement of the duty of charity.[20] Buchanan and Loriaux have argued forcefully that this is the case. But we would not allow this argument to detain us here. It suffices, for our purpose here, to merely highlight the perfection and imperfection dichotomy. Closely related to this dichotomy is another distinction which differentiates the duties of justice from those of charity – the enforceability/non-enforceability distinction. Typically, the duties of justice are regarded as enforceable while the duties of charity are not. According to Buchanan, two distinct reasons are often provided to defend this position. The first is that, since the duties of justice, rather than the duties of charity, correlate with specific duties, only duties of justice may be enforced. Strictly speaking, it is only duties with clearly defined correlative rights that can be reasonably enforced.

The second reason refers to the indeterminacy of the duties of charity, an indeterminacy which flows from the fact that such duties do not specify clearly the class of individuals that are the recipients of charity and how much charity is owed them. With such indeterminacy, it goes without saying that attempts to enforce such duties will be riddled with arbitrariness and consequently abuse[21.] Loriaux puts the point slightly differently:

> As long as the bearers or recipient of a duty have not been specified, it is difficult to assert that someone has acted unjustly. Similarly as long as a duty remains unenforceable because it is recalcitrant to each form of constraint – it cannot be a matter of justice not to fulfill it.[22]

The three distinctions between duties of justice discussed above may be regarded as the common ones in the literature. Recently, however, Loriaux has added a fourth dichotomy by emphasizing the idea of corrective and causal responsibility. According to him, an agent could be said to owe others corrective responsibility because they possess an unmistakable capacity to provide required charity. On the other hand, the same agent owes causal responsibility if it is the case that s/he is responsible for the plight of the recipients needing aid or assistance. With particular reference to alleviation of global poverty, he argues that duty bearers could either be those who have a capacity to play a significant role in reducing it or those who have contributed to its escalation. The former, he claims, have only a duty of charity while the latter owe it as a duty of justice to alleviate global poverty.

Having examined the fundamental distinction between duties of justice and duties of charity, we may revert back to our discourse on the harm, or strictly speaking the non-harm principle. If we apply the categories discussed above, it is quite obvious that the non-harm principle can be legitimately classified as a duty of justice. It is the case, for instance, that the non-harm principles necessarily invoke correlative duties. The duty not to harm necessarily entails the right not to be harmed. Clearly, the duty and right bearers could be specified with little or no controversy: just as I have a right not to be harmed unjustifiably, I also owe the rest of humanity the duty of not intentionally inflicting harm on them. Thus, Oneill's assertion that some rights are 'manifesto

rights', that is, rights with no specified duty bearer, does not apply.[23] The non-harm principle highlights a duty that all men owe themselves. The non-harm principle may also be described as a perfect right in that it is not characterized by a level of indeterminacy that may hamper its enforceability. As indicated above, the right and duty bearers of the duty of non-harm could be specified. The demand of the principle is also clear – do not impose unjustifiable harm on others. In fact, the argument could be made that the prosecution of criminals is only possible where a case of grievous harm has been established beyond doubt.

In the preceding paragraphs, we have examined the meaning of harm, as well as outlined the nature of the duty of non-harm, by a detailed reference to the distinguishing features of the duties of justice. In the following paragraphs, we shall attempt to provide a philosophical grounding for the 'non-harm' principle, to demonstrate why it is so fundamental to human relations. Here, we will draw from Kantian moral philosophy.

Respect for persons and the non-harm principle

In the estimation of Immanuel Kant, the great German Philosopher, man is a supremely valuable being who occupies a special place in creation. In contrast to artifacts, natural objects, and non-human animals which only possess extrinsic value, that is, they serve human purposes, man is a creation of dignity. This is because, in addition to possessing extrinsic value, he possesses an intrinsic worth which makes him valuable above all price. In other words, man has no price, since he is a being of absolute worth and value. It is on the account of this special status, purportedly possessed by man, that we owe them respect that must not be violated regardless of consequences. In other words, man's special status or intrinsic worth implies that he has inviolable rights which may not be violated, even in the bid to promote the common good.

But why, the question may be asked, does Kant suppose that man occupies such a special place in the scheme of things? What is it, to pose the question differently, that gives man intrinsic value and separates him from animals and other entities which only have instrumental value? In Kant's view, there are two major reasons that account for man's special status. First, he argues that humans have intrinsic worth or dignity

because they are rational beings, that is, they have the capacity to autonomously make their decisions, independently set their goals, and to order their conduct by reason. Kant evidently puts a lot of premium on the human capacity for reason: as far as he is concerned, moral laws are only apprehendable by reason. Thus, without rational beings, such as humans, there would be no morality in the first place. On this view, man is the embodiment of the moral law itself. Here is how Kant sums up the implication of human possession of the capacity for rationality:

> Rational beings, on the other hand, are called persons because their nature already marks them out as ends in themselves – that is something which ought not to be used merely as a means and consequently imposes to an extent a limit on all arbitrary treatment of them (and is an object of reverence)[24.]

Here, Kant is unequivocal in contending that given the special status of humans as ends in themselves, they cannot be treated arbitrarily or handled carelessly; rather, they are meant to be objects of reverence. It is from this perspective that one may better appreciate one of the formulations of the categorical imperative which postulates that we ought to "act in such a way as to always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end."[25]

Beyond the emphasis on rationality, the second, but related, reason why Kant considers humans as having intrinsic value and objective worth is the fact that people have desires and goals and as such other things have value for them in relation to the fulfillment of these desires and goals unlike mere things, artifacts and non-human animals which only have values as means to an end, man is an end in himself. By the phrase "human is an end in himself," Kant is simply saying we should treat other people as beings who have ends. In Richard Norman's explanation, the phrase implies that "I should not treat human beings as mere means to my own ends, because I should recognize that they themselves have ends of their own, they have ends because they are free rational and autonomous agents, they can act in accordance with purposes and principle, they are not things."[26]

In her own expatiation of Kant's notion of always treating rational beings as an end, James Rachel concludes that the phrase implies that at the most superficial level, we have a strict duty of beneficence towards other persons. We must strive to promote their welfare; we must respect their rights, avoid harm and generally "endeavour so far as we can to further the ends of others."[27]

Here, Rachel infers from Kant's principle of respect for persons, a strict duty of beneficence, which demands that we act on behalf of others' welfare. She also concludes that we, on the same ground, owe others the negative duty of harm avoidance. Interestingly, Rachel is not alone in this submission. Valentini reaches a similar conclusion:

> Plainly respecting persons qua agents capable of choosing and acting in pursuit of their own end requires refraining from undermining their agency that is refraining from harming them. When people are harmed, when their conduct is illegitimately interfered with they cannot effectively translate their choices into action and their ability to carry out their life plans is thereby compromised.[28]

If we take the principle of respect for persons seriously, as enunciated by Kant, we would certainly arrive at the conclusion that one practical implication of the idea of autonomous beings who are imbued with rationality and possess equal worth is that we have a duty to refrain from harming them; otherwise, we will be undermining their autonomous agency. To deliberately inflict harm is, simply put, the violation of human dignity and the principle of respect for persons.

To sum up this section, our intent has been to provide a normative grounding for the non-harm principle. This, we argue, could be done by invoking Kant's principle of respect for persons, and demonstrating how non-harm principle is a necessary derivation from the obligation to respect all rational autonomous moral agents, including ourselves. In the following section, we shall attempt to show that the non-harm principle is at the heart of moral thinking. We shall do this by providing a survey of diverse thinkers and cultures which articulated, and advocated the adoption of, the non-harm principle in human relations. However before we proceed to the survey it is

important to make clear the framework of causation adopted in this thesis on the basis of which causal responsibility for harm could be established.

Causation and responsibility for harm

Causation, simply put, is the relationship between an act and its consequences.[29] Generally, to prove that an agent, either a human or juristic person, was responsible for harm or damage suffered by another, it is imperative that the causal connection between the action of the former and the consequences suffered by the later be established. It is only when this causal connection is demonstrated that it could be legitimately claimed that a given moral agent "A" bear moral responsibility for the harm inflicted on victim "V" and thereby incurs the duty of justice to rectify the harm in question.

David Hume was, however, skeptical about our ability to ground causal connections in empirical observation. For Hume we do not experience necessary connection between events and all we can deduce from experience is temporal succession and constant conjunction between events that we usually refer to as cause and effect.[30] Clearly Hume's empiricist analysis of causal relations leads to a philosophical blind alley where it becomes absolutely impossible to establish the causal connection between actions and their consequences. Thus we will set aside Hume's skepticism and proceed to examine the question: how do we determine an agent's responsibility for harm? To answer this question, it would be necessary to outline the typology and theories of causation in order to indicate the framework for causal responsibility underpinning this thesis.

First, there is a distinction between necessary, sufficient and contributory causes. A necessary condition for the occurrence of a given event refers to a circumstance to a condition in whose absence the event cannot occur while a sufficient condition for the occurrence of an event refers to a condition in whose presence the event must occur.[31] A contributory causes is a condition which is one amongst a complex of causes of an event. By definition a contributory cause will not be regarded as sufficient, since it is accompanied by other causes. Closely related to the causes described above is a proximate cause, that is, a factor that directly produces an event without which the event would not have taken place.[32] For example, a person throws a lighted match into

a bin filled with combustible material that starts a fire which burns down a building. It is clear that the proximate human act that started the chain of events is the throwing of match into the bin. As a general rule, where the consequences of an act is not foreseeable- for instance, if the thrower of the lighted match never anticipated that the fire could be carried by the wind, he/she may not be held liable.

Aside from the straightforward causes described above, there are complicated forms of causes which include concurrent and intervening causes. Concurrent causes are events or actions occurring simultaneously create a condition that any of the events could have created alone. For example if one person stabs another person who has been shot at by a third person, either acts will be enough to bring about injury. We have a case of intervening cause where an inflicted harm is made worse by the act of another agent.[33] Such an event is said to break the chain of causation and the defendant will only be liable for only for the harm that occurred up to the point where the intervening cause interrupts the causal chain. If a drunken driver inflicts a minor injury on a pedestrian and subsequently hits a rotten telephone pole, which eventually kills the pedestrian. The rotten condition of the pole becomes an intervening factor. Whereas the responsibility for the minor injury may be attributed to the driver, the telephone company may be liable for the death of the pedestrian.

From foregoing discussion, it is clear that there are a variety of cause patterns which makes the attribution of responsibility for harm a complicated task. For our purposes in this thesis, responsibility could be correctly attributed to any agent whose actions and inactions are both necessary and sufficient for the said harm. In addition, partial responsibility can also be attributed to agent whose action or inaction contributes to the incidence of harm, provided that the extent of liability is commensurate with the degree of contribution.

A survey of views on the non-harm principle

Cicero

The first major attempt to emphasise the centrality of the non-harm idea, as the essential core of morality, can be traced to the Stoic philosopher Cicero. He argues that

the first demand of justice is that we "do no harm to another unless provoked by injury."[34] By the same token, injustice has two parts – the unjustified infliction of injury and the failure to repel injury when one has the means. If Cicero is right to say that non-harm is the first principle or demand of justice, it follows then that to harm another without justification amounts to injustice.

Adam Smith and J.S Mill

If we move away from ancient philosophy to modern liberal thought, we find at least two major thinkers that have defended the non-harm principle, namely, Adam Smith and J.S. Mill. In his *magnus opus*, *The Theory of Moral Sentiments*, Adam Smith argues that the survival of the society hinges on the institutionalization of justice.[35] Unless there are rules to prevent individuals from harming each other, society will unravel. It is these rules that specifically forbid the harming of others that we call justice. It is within this context that we can better appreciate Smith's categorical disapproval of harm to others:

> One individual must never prefer himself so much even to any individual, as to harm or injure that other in order to benefit himself, though the benefit to the one should be much greater than the hurt or the injury to the other.[36]

Perhaps more than any other work of the modern era, J.S. Mill's *On Liberty* has helped to popularize the harm principle. Interestingly, Mill's main focus in that work is to address the nature and the limits of power that could be exercised by a properly constituted government over the individual. Being an avowed liberal, Mill aims at defending the individual from the possible tyranny of governmental authority, as well as societal sanctions. As Hampshier Monks suggests, Mill sees that although "the danger of such tyranny was originally seen as a danger imposed through political power, it is also one that can be imposed through the informal sanction of society."[37] In the face of the danger of tyranny highlighted above, Mill's response is to invoke the harm principle to protect the "vulnerable" individual. His harm principle is beautifully encapsulated in the following assertion:

> The sole end for which mankind is warranted individually or collectively in interfering with the liberty of action of any of their members is self protection. That the only purpose for which power can be rightly exercised over a member of a civilized community against his will is to prevent harm to others. His own good, either physical or moral is not a sufficient warrant. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which concerns himself, his independence is, of right, absolute. Over his own body and mind the individual is sovereign.[38]

Here, Mill's intention to secure maximum liberty for the individual is clearly set forth. He, however, concedes the universal moral intuition that we all owe others a duty of harm avoidance. He, therefore, grants that the only occasion when government or society could legitimately restrain the liberty of the individual is when his actions harm others. Thus, Mill stipulates the harm principle as the only morally accepted, liberty-limiting principle.

Beyond the earlier endorsement of the non-harm principle, which we have examined so far, the intellectual climate of 20th century moral and political thought produced a number of overlapping arguments regarding the principle. We shall examine some of these arguments.

H.L.A. Hart

H.L.A. Hart advances an argument based on the mental and physical vulnerability of human beings in his bid to endorse the non-harm principle. According to him, it is the recognition of their member's inescapable vulnerability that all societies develop a set of basic rules of forbearance', which are usually formulated in negative forms as prohibition.[39] According to Hart, these basic rules consist of imperatives that proscribe killing, maiming others or the breaching of property rights. In other words, the principle of non-harm constitutes a basic aspect of morality in human societies. In his words:

> The connexion between justice and injustice of the compensation of injury and the injunction to "treat like case alike and different cases differently, lies in the fact that outside the laws there is a moral conviction that those with whom the law is concerned have a right to mutual forbearance from certain kinds of harmful conduct.[40]

He submits emphatically that "such a structure of reciprocal rights and obligation proscribing the grosser sorts of harm constitutes the basis, though not the whole of the morality of every social group."[41] Generally, this proscription is codified in the body of laws governing society. As John Akintayo puts it, law provides the legal framework for the realisation of justice.[42]

Williams Frankena

Apart from Hart, another thinker whose work has argued that non-harm is a basic requirement of morality is Williams Frankena. He contends that we have a duty of beneficence from which he derives four major moral imperatives which must underpin our social interaction. These are:

a.)One ought not to inflict evil or harm

b.)One ought to prevent evil or harm

c.)One ought to remove evil

d.)One ought to do or promote good.[43]

A casual appraisal of the moral imperatives outlined above clearly shows that the non-harm principle is a prominent element of morality or justice. Of the four moral imperatives, three points to the non-harm principle. Strictly speaking, the first three imperatives takes precedence over the injunction to promote good, though Frankena argue that they are all *prima facie* duties.[44]

W. D. Ross

The notion of prima facie duties brings us to another 20th century figure W.D. Ross who has attempted to spell out the nature of human obligation in civil society. In his tremendously popular book, *The Right and the Good*, Ross rejects Utilitarianism on the account of its insistence that we have one and only one moral duty, that is, the maximization of the good. On the contrary, he argues that often we find ourselves under various conflicting moral obligations which cannot be reduced to the single obligation of maximizing the good.[45]

According to Ross, our many duties arise from the special relation in which we may stand to others, for instance, if we stand in our interaction with others "as promisor to promisee, creditor to debtor, wife to husband, of child to parent, friend to friend, fellow country man to fellow country man," each of these relations creates a *prima facie* duty.[46] Here, the *prima facie* duty is "simply an obligation that can be overridden by a more important obligation."[47] When such a *prima facie* obligation is not overridden by a more stringent obligation, then, it becomes our actual obligation in a particular situation of choice. Having made these preliminary clarifications, Ross goes ahead to provide his famous list of *prima facie* duties. Among others, the duties include:

1.) *Fidelity: the duty to keep one promises and to refrain from deception.*

2.) Reparation: the duty to remedy harm done to others.

3.) Gratitude: the duty to be grateful for benefactions bestowed on us.

4.) Non-Malfeasance: The duty not to harm others physically or psychologically.

5.) Harm Prevention: The duty to prevent harm to others.[48]

According to Ross, what is immediately and particularly striking about the list of duties, which we owe each other, is that the prevention of, as well as refraining from, harm stands out as our core duty. Ross, therefore, corroborates the universal moral intuition that the principle of non-harm is central to moral action. While, of course, Ross' list of *prima facie* duties identifies some duties of beneficence as important, such as the prevention of harm, it is evident that Ross believes that the duties of non-harm is more significant and takes lexical priority over the former. In his words:

> The recognition of the duty of non-malfeasance is the first step on the way to the recognition of the duty beneficence; and that accounts for the prominence of the commands "thou shall not kill," "thou shall not commit adultery," "thou shall not steal," "thou shall not bear false witness" in so early a code as the Decalogue. But even when we have come to the recognition of the duty of beneficence, it appears to me that the duty of non malfeasance is recognized as a distinct one, and as *prima facie* more binding.[49]

As Ross rightly points out, it is quite instructive that the Decalogue or the Ten Commandments contain a considerable number of prohibitions which relate to the non-harm principle.

From the survey of the different defenses of the harm principle provided so far, we could conclude, tentatively, that non-harm principle could be a cultural universal. This means that the principle is adopted across culture and societies as a basic minimum required by morality.

Brian Barry

Brian Barry's contemporary defense of the non-harm principle supports this position. According to Barry, those who disagree about the conception of the good life, nevertheless, seem to agree on the basic proposition that there is a need to eliminate all forms of harm from social life.[50] In his response to the argument of the communitarians – that the diversity of moral codes makes it impossible to provide a universally accepted conception of justice – Barry contends that societies demonstrate a similar understanding of the most fundamental forms of harm that can befall human beings.[51] To buttress this point, he refers to the fact that societies across the world have a legal system of punishment, which is based on the identification of a common set of 'evils', such as the deprivation of money or property, physical confinement, loss of bodily parts, and death. These, he argues, will not function as reliable punishments unless they were regarded as 'evils' by people in spite of diverse conceptions of the good.

Tom Beauchamp and James Childress

Beyond the various philosophical defenses of the principle of non-harm, the preponderance of the principle is further demonstrated by the incorporation of the principle as a fundamental obligation in medical practice and in international law. In their *Principles of Biomedical Ethics*, Tom Beauchamp and James Childress assert that the principle of non-malfeasance (as the harm principle is generally described in medical ethics) underscores the obligation not to inflict harm intentionally. They trace the principle to the Hippocratic Oath which reads: "I will use treatment to help the sick according to my ability and judgment, but I will never use it to injure or wrong them."[52]

Interestingly, just like we find in the ideas of the philosophers mentioned so far, the Hippocratic Oath establishes the obligation of beneficence and non-malfeasance.

Andrew Linklater

In several of his articles, Andrew Linklater repeatedly argues that international law provides evidence of how shared understanding of harm and suffering has made it possible for different societies to reach an agreement on the different features of an emerging cosmopolitan ethic.[53] To drive home his argument, Linklater provides a long list of what he calls 'Cosmopolitan Harm Conventions' which have been incorporated into international law in the last several decades. These include:

- *International humanitarian law which creates obligation not to cause 'serious bodily or mental harm' to individuals and to ethnic or other groups.*
- *The modern law of war- which upholds the obligation not to "cause superfluous injury or unnecessary suffering to combatants and non combatants".*
- *The declaration of the elimination of violence against women, which prohibit any gender-based violence.*
- *The convention against torture and other cruel, inhuman or degrading treatment or punishment which proscribes the infliction of torture, pain and suffering.*
- *Principle 27 of the Stockholm Declaration on the Human Environment which declares that states have a responsibility to ensure that the activities within their jurisdiction do not cause damage to the environment of other state or areas beyond their jurisdiction.*[54]

Given the considerable recognition that international law has given to the non-harm principle by way of Cosmopolitan Harm Conventions, Linklater concludes, quite correctly, that the harm principle commands respect in a world (which is clearly not confined to liberals) characterized by limited sympathies, indifference or hostility to the

welfare of others, and in which generalized concern about human vulnerability can straddle clashing or incommensurable conceptions of the good.[55]

Linklater's subsequent reference, to the fact that the recognition of the harm principle is not confined to the world of the liberals, is seen in the endorsement of the principle by major world religions and in some non-western cultures. We have, for instance, referred to the observation by Ross that the harm principle stands prominently as an essential component of the Decalogue.

Buddhism

In Buddhism and related oriental religions, we come across the concept of *Ahimsa*, the principle of non-harm, which emphasizes the vulnerability of all sentient beings to pain and suffering, and therefore enjoins us to desist from adding to human suffering. Below is Holy Stocking's apt description of Buddhist ethics.

> Buddhist ethic has sometimes been boiled down to this very injunction "help others if you can, but if you cannot, at least refrain from hurting others." This explains in part why intending no harm is typically mentioned first in the discussion of this system of ethics; intending no harm is the least that we can do.[56]

Confucianism

Just like Buddhism, Confucianism supports the non-harm principle by "emphasizing the duty of *Ren* or humanness. In addition to proscribing harm to others, this duty prescribes the positive obligation of benevolence."[57] Again in this short quotation, we see the reiteration of the duty of beneficence and non-harm which our analysis has shown so far to be core principles of ethical thought and conduct.

In the foregoing, we have sought to explicate the meaning of harm, identify the character and nature of the principle of non-harm as well as establish its universality. As was made clear from the beginning, our minimalist account of global justice is to be woven around the twin concepts of *harm* and *rectification*.

The rectification principle

Having extensively analyzed the duty of non-harm, we shall now shift the focus of our discussion to the notion of rectification. Here, we examine the ideas of Aristotle, Robert Nozick and Goran Collste on the doctrine of rectification. We must begin, however, by shedding some light on the meaning of rectification.

Etymologically, the term 'rectify' is derived from the Latin word *rectificare*, which literally translated means 'to put right'.[58] Besides, The New Penguin Dictionary defines the concept as an action which is taken "to set (something) right or to remedy it."[59] It is clear from this definition that rectification could become relevant in different contexts. An example is when one corrects a grammatical mistake in an essay, when one or corrects a defect in an electronic appliance. With specific reference to harm, however, rectification is closely associated with the idea of compensatory justice which refers "to the extent to which people are fairly compensated for their injuries by those who have injured them," where just compensation is conceived as "compensation proportional to the loss inflicted on a person."[60] Simply put then, rectification takes place when the agent who inflicts harm on another remedies the situation by paying compensation commensurate to the injury suffered by the victim.

Aristotle on rectificatory justice

In *Nicomachean Ethics*, a book that has become one of the classical texts in Western philosophy, Aristotle discussed key ethical concepts, such as happiness, virtue and justice. It is to his ideas on rectificatory justice that we now turn.

It must be noted from the beginning that Aristotle discusses a variety of justice in his *Nicomachean Ethics*, which includes general justice, distributive justice as well as rectificatory justice. It is the last – rectificatory justice – that we are concerned with in the succeeding analysis.

According to Aristotle, it is the duty or the role of the judge, who is the guide and the implementor of justice to ensure that rectificatory justice is upheld in any given circumstance. Thus, when voluntary or involuntary transaction between individuals result in some form of injury for one party and gain to the other, the "judge's object is

not to punish but to give redress."[61] Justice in transaction, in Aristotle's view, requires some form of equality. However, where the transaction results in some inequality and injustice have been perpetuated, the judge, being the embodiment of justice, must seek to eliminate such. Aristotle bears being quoted at length:

> For here it does not matter if a decent person has taken from a base person, or a base person from a decent person…. Rather, the law looks only of differences in the harm (inflicted), and treats the people involved as equals, if one does injustice while the other suffers it, and one has done the harm while the other has suffered it. And so the judge tries to restore this unjust situation to equality since it is unequal… for in such cases, stating it without qualification, we speak of profit for the attacker who wounded his victim, for instance, even if that is not the proper word for some cases; and we speak of loss for the victim who suffers the wound.[62]

In simple terms, Aristotle's argument for rectificatory justice is that if one profits from inflicting harm on another, that is, a victim, who as a result suffers some form of loss, whatever that loss might be, the former is under a stringent obligation to compensate the latter by repairing or off-setting the damage that has been done, in order for the requirement of justice to be satisfied. In essence, rectificatory justice does not specifically require punishment of the perpetrator of a harm. Properly speaking, punishment is required by retributive justice; what it demands is that the wrong doer takes positive steps to remedy or rectify the situation so that the loss or damage suffered by the victim is redressed. Thus, the *status quo ante*, in which the victim and the wrongdoer were 'equal', is restored. Here is Aristotle's rendition of the point:

> The names "loss" and "profit" are derived from voluntary exchange. For having more 'than one's own share is called making a profit, and having less than what one had at the beginning is called suffering a loss. ….. And when people get neither more or less but what precisely belongs to them, they say they have their own share and make neither loss nor profit. Hence the just is the intermediate between a certain kind of loss and profit, since it is having the equal amount both before and after the transaction.[63]

Aristotle's language here suggests that he was speaking specifically of cases of economic exchange. To conclude that this is the case, of course, would be an error, for some of his illustrative examples refer to instances of inflicting wounds or even killing the victim. Thus, Aristotle only borrows the metaphor of economic exchange to show that rectificatory justice requires the reparation of harm inflicted on one by another. Interestingly, Aristotle's analysis of the notion of rectificatory justice is not quite different from the notion of the duty of reparation found in the writings of W.D. Ross and a host of other thinkers. Perhaps, the only difference is that Aristotle's treatment of reparation is only more detailed than those of the other philosophers in question. This shows that there is some overlapping consensus about the idea of reparation, that is, the argument that the perpetrator of harm, in fact, does owe a stringent duty to repair the damage he has done. To further strengthen our observation that there is overlapping consensus on the duty of reparation, let us examine the idea, as espoused by Robert Nozick in the 20th century.

Nozick on rectification

Nozick's *Anarchy, State and Utopia*, from where we draw our next account of rectificatory justice, was essentially motivated by the author's intention to provide a reasoned justification for absolute, unrestricted property rights, in order to show that the latter is fully compatible with justice on the one hand, and that any governmental interference with absolute property rights by way of taxation or any form of distribution is unjust.[64] Incidentally, in Nozick's bid to defend absolute property rights, he needed to provide an account of how property is initially acquired and justly transferred in economic exchanges. In producing this account, Nozick postulates a historical conception of justice which he calls the 'entitlement theory of Justice'.

According to the entitlement theory of justice, there are three major principles that govern the acquisition of absolute property rights. These are:

1.) *A person who acquires a holding in accordance with the principle or justice in acquisition is entitled to that holding.*

2.) *A person who acquires a holding in accordance with the principle of justice in t ransfer from someone else is entitled to that holding.*

3.) *No one is entitled to a holding except by (repeated) applications of 1 and 2.*[65]

There are three principles of justice that correspond to each of the above propositions:

1.) *The principles of justice in acquisition - an account of how people love to initially own the things.*

2.) *The principle of justice in transfer- whatever is justly acquired can be freely transferred.*

3.) *The principle of justice in rectification - how to deal with holdings if they were unjustly acquired.* [66]

To see how Nozick weaves his theory into a coherent whole, we may now examine the outlined principles of justice and show how they relate with one another.

The principle of justice in acquisition

A central proposition of the entitlement theory of justice is that whatever holding arises from a just acquisition of transfer is legitimately held. Thus, the holder has legitimate entitlement to the holdings in questions. In Nozick's own words: "whatever arises from a just situation by just steps is itself just.[67] Obviously, 'just steps' in the immediate statement points to justice in initial acquisition and justice in transfer. But the question is: How is justice in initial acquisition effected, given that we could conceive of a time in history when all things were previously unowned? Interestingly, Nozick does not maintain that existing distribution of holding actually fulfills the principle of justice in acquisition. This is where the principle of justice in rectification becomes relevant. He, however, contends that in principle, it is quite possible for persons to justly acquire previously unowned resources. To justify this position, he invokes the Lockean argument for property rights in *the Second Treatise of Government.*[68]

Below is Christman's simplified version of the Lockean argument for private property.

(1) Every man has a property in his own person (the notion of self ownership;

(2) Therefore every man has also a property right "in the labour of his body and the works of his hand";

(3) If he removes some object of its natural state by mixing his labour with it. AND

(4) There is "enough and as good left in common for others";

(5) The object or objects do not exceed "[a]s much as anyone can make use of ... before it spoils;

(6) A person has thereby fixed (a) property in them. [69]

Nozick does not endorse the entire argument provided by Locke to explain initial acquisition. Instead, he focuses primarily on the Lockean provision expressed in premises 1 and 4.

For the sake of emphasis, the Lockean proviso states that for anyone's appropriation of a given 'unowned portion' of 'the commons', such as land resource or any object, to be just, 'enough and good', it must be left for the appropriation and use of others.[70] For his purposes, Nozick eventually adopts a weaker version of the provision which simply states that the appropriation of previously unowned objects of nature are only ruled out when such actions worsen the situation of others.[71] Thus, it follows that if our appropriation of a previously unowned land worsens the situation of others, we have violated Nozick's modified Lockean proviso.

The corollary of the above assertion is that if our appropriation of some unnowed land does not worsen the situation of others, then, we satisfied the requirement of justice in acquisition. Whatever holding accrues to me through such an appropriation is legitimately and justly mine. Certain issues could be raised about the interpretation of the phrase "do not worsen the situation of others." The argument could be brought up, for instance, that given the finitude of the resources in the world, any appropriation leaves the rest of humanity worse off. We will, however, not bother ourselves with such argument. What is important, for our purposes, is to establish that Nozick provides an

account of how just initial acquisition takes place. We simply assume that just acquisition and unjust acquisition are possible in principle.

The principle of justice in transfer

Nozick argues that just transfer is dependent on just acquisition, for it is not possible to justly transfer what one has not justly acquired. The essential core of the principle of justice in transfer is that a given transfer is just if, and only if, it is voluntary, that is, not brought about by fraud, threats or any form of coercion. To illustrate the principle of justice in transfer, Nozicks constructs a thought experiment which asks to imagine a society which begins with a just distribution – we might call D1. He also asks us to suppose that in the egalitarian society, an individual Wilt Chamberlain is in great demand because of his excellent basketball skills. At the beginning of the season, we are told that Chamberlain negotiated with his managers to get 25 cents from all tickets sold. By the end of the season, a million fans have attended his games so that he ends up with $250,000 which makes him much richer than anyone else. We now have a new distribution and an unequal society – call this D2.[72] As far as Nozick is concerned, this new distribution is just because Chamberlain did not forcibly or fraudulently acquire his new financial estate. His fans voluntarily purchased the basketball game ticket and they were absolutely free to spend their money on other things.

Justice in rectification

While many transactions satisfy the principle of justice in transfer or voluntary exchange, it is, definitely, also the case that history is replete with unjust and involuntary transfers which are a result of slavery conquest, theft and fraud. To deal with such cases of injustice, the entitlement theory of justice invokes the principle of rectification.

> Not all actual situations are generated in accordance with the two principles of justice in holding: the principle of justice in acquisition and the principle of justice in transfer. Since people steal from others, or defraud them, or enslave them, seizing their products and preventing them from living as they choose, or forcibly exclude others from competing in exchanges. None of these are

> permissible modes of transmission from one situation to another…. The existence of past injustice… raises the third major topic under justice in holdings: the rectification of injustice in holdings.[73]

Beyond the identification of the need for rectification of past injustice, holding Nozick's analysis of his third principle in the entitlement theory was inchoate and undeveloped. He, however, suggests that determining what is required for adequate rectification should be based on some form of counterfactual reasoning, to establish what would have been the patterns of holdings, if unjust acquisitions and transfers had not taken place. Presumably, then, rectification would require restoring the patterns of the distribution of holdings which existed before the introduction of injustice in acquisitions and transfers.

There are a number of problems thrown up by the rectification principles. First, there is the problem of increased value. If an individual steals a dollar, for instance, and makes a million dollars after several years, from the stolen dollar, what would appropriate rectification require? A payment of a dollar or a million dollars?[74] Second, Jonathan Wolff raises the question of whether it is even right to let bygones be bygones, the issue of how far we must go in wiping clean this historical plate of justice.[75] These are very fundamental questions, the resolution of which will certainly determine the usefulness of the principle of rectification. We shall consider some of these problems in the last chapter. What is crucial at this point is that we have been able to establish that Nozick's entitlement theory of justice incorporates the principle of rectification or reparation of past injustice.

As we adumbrated earlier, Nozick's objective was to provide a philosophical justification for absolute property rights. His analysis of the entitlement theory of justice, with particular emphasis on the third principle, further reinforces, inadvertently, the moral appropriateness of the notion of rectificatory justice. Nozick, of course, does not employ the language of harm which is central to our discourse in this chapter; the notion is definitely implicit in his discussion of justice as rectification. Injustice, such as stealing, defrauding enslaving or forcefully seizing products, is nothing but harm inflicted on specific victims. In fact, to invoke the notion of rectification is to imply that a prior damage or harm has been done. Again, the phrase "worsen the situation of

others" – Nozick's derivation from the modification of the lockean provision – could simply be translated as "harm others" without any loss in meaning. Ultimately, Nozick succumbs to the universal moral intuition that the infliction of harm creates the duty of rectification for the agent who is morally responsible for the harm and the right of reparation for its victims.

Just like the non harm principle, the principle of rectificatory justice could be traced from ancient philosophy through to the contemporary era. Aristotle, as we have said earlier, extensively argues for rectificatory or corrective justice. Also, in his *Two Treatises of Government*, John Locke submits that justice implies a right to reparation such that an agent who is injured has a right to demand reparation from the one who inflicted the injury.[76] In the 20th century thought, reparation of harm is considered a fundamental moral ideal. Prominent, for instance, on Ross' list of *prima facie* obligation is the duty of reparation which he describes as duties resting upon previous wrongful act.[77]

Collste on Rectification

Apart from Nozick's ideas on the principle of rectification, which we have just discussed, there is a recent attempt by Goran Collste to conceptualize what he calls Global rectificatory justice, a theory of justice in which he attempts to apply the basic principle of the duty of reparation of unjustifiable harm to the historic injustice of slavery and colonialism. In developing his account of global rectificatory justice, Collste rests his argument on the following premises:

(a) There is a moral obligation to rectify the consequences of wrongful acts;

(b) That colonialism was on the whole harmful to the colonies;

(c) That the present unjust global structure was constituted by colonialism; and

(e) That the obligation of the rectificatory justice is transgenerational so long as there are identifiable beneficiaries and victims of past injustice.[78]

In essence, Collste concludes that the historic injustice visited on various parts of the developing world, in the form of colonial exploitation and slavery, requires redressing, from the point of view of justice, the fact that the actual individuals involved may not be alive presently notwithstanding:

> Assume that I have a life in prosperity and welfare. My next door neighbour, on the other hand, lives in poverty and misery. Let us also assume that many years ago my grandparents stole land from my present neighbour's grand parent and our parent's difference in welfare is the result of this historical fact. Then, it seems that my neighbour with good reasons could demand to get a part of my land or income, and thus that I have some moral obligations to my neighbour. And these obligations are generated by acts of my forefather.[79]

To say that Collste's conclusion has some moral force is undeniable. All considered, it appears that the economically advanced countries of the world, who participated in colonization and slavery, owe a duty of rectification or reparation to the mostly economically backward nations, who were victims of these historical atrocities. The problem with Collste's argument, however, is that it suggests that the duty of rectification does not have global application, since the argument only concerns the perpetrators and the victims of exploitation and slavery. Put differently, Collste tends to emphasise the backward-looking nature of rectificatory justice.

In sharp opposition to Collste's position, Leif Wenar has argued that rectificatory justice ought to be forward-looking. According to him,

> …backward looking considerations add no weight to claims of reparation. Only forward looking factors give us reasons to repair historic injustice. This may appear a surprising result, but it seems to me unavoidable once we become alert to the reasons why some reparative demands get a hold onto us while others do not. Reparations, when they are due, are reparations not for the sake of the past, but for the sake of the future.[80]

While we may not get into the debate between Collste and Weinar, as to whether rectificatory justice ought to be backward or forward-looking, we may observe that both perspectives are not mutually exclusive. Rectificatory justice is certainly enriched

by a combination of the backward-looking and the forward-looking features. More significant is the fact that the combination of the principles of harm and rectification could be the basis for developing an account of global justice that foregrounds the duty of rectification to all wronged individuals and states, irrespective of the distance between the perpetrator of harm and the victim. In the closing section of this chapter, we shall endeavour to develop such an account.

A minimalist account of global justice

In constructing a minimalist account of Global justice, we must begin with a basic definitional clarification which relates to the question: In what sense is the term minimalist employed in this discourse? Minimalism is a term that is employed in disciplines as diverse as Computer Science, Music, Philosophy, Arts and Design, and so on. In Arts and Design, for instance, "minimalism" describes a movement that seeks to strip the creative output down to its fundamental features.[81] In political theory, Micheal Walzer is one of the few philosophers who have attempted to promote a minimalist conception of justice in his article, 'Global and Local Justice'. He implies that a minimalist conception of justice is content with specifying the minimum content of justice. Or, put differently, a minimalist understanding of justice states the basic obligation and the requirement of justice.[82] Walzer hints at his conceptualization of minimalist global justice when he writes that:

> …we can agree on the theory of global justice… what we require instead to meet the needs of the hour is minimalist in character: the recognition of people like ourselves, sympathies with their pain, and few shared moral principles. If these three amount to a theory, it is so to speak a little theory, one that is incomplete.[83]

Though we do not share Walzer's conviction that a minimalist theory of justice consists of the three principles he highlighted in the quotation above, he hints at the nature of minimalist understanding of justice when he opines that it consists of a few shared moral principles, and that it is essentially an incomplete theory. Thus, when we employ the phrase "minimalist conception of global justice," we speak of the basic minimum principle which is an essential element of, or that which must define, such a theory. *Ipso facto*, such an account of justice is necessarily an incomplete account because it

only specifies the "minimum" that is expected of a theory of justice, and not necessarily all that is required of the former.

In this thesis, we have identified the non-harm principle and, consequently, the principle of rectification as the basic minimum that must characterize any conception of Global justice. Our argument is that while Global justice may require other principles, it must necessarily incorporate the duties of non-harm and the obligation of rectification by the agent causally responsible for such harm. But the question is: How do the principles of non-harm and rectification become the foundation of global justice?

In answering this question, we shall attempt to paint the background context in which the idea of global rectificatory justice has become an imperative. In our increasingly globalizing world, characterized, as it were, by increasing mutual interdependence and the shrinking of space and time, the distinction between the global and the local is increasingly becoming blurred, just as the forces and factors that are bringing the world together continue to magnify the human potential to generate transnational consequences.[84] In other words, globalization has collapsed the world into a single interconnected space where the activities in one locale could generate positive or negative externalities. This explains why Anthony Giddens defines globalization as the intensification of worldwide relationships which link distant localities in such a way that local happenings are shaped by events occurring miles away and vice versa.[85]

Now if the actions or inactions in one locale have implications and consequences for the 'distant others', who are sometimes thousands of miles away, it would be arbitrary to seek to confine our obligations of justice to bounded political communities (or nation-states) as communitarians and the nationalists are wont to do. It is a simple incontrovertible fact that if the consequences of our actions are transnational in their reach, that our obligations too must be transnational in character. The phenomenon of transnational harm, which Loraine Elliot defines as the unfairness or inequity, in which the lives of "others beyond-the-border are shaped without their participation or consent, necessarily give rise to the concept of transnational obligations."[86] Again, Elliot puts the point poignantly:

> …the transactions of harm (i.e. transnational harm) extends the bounds of those to whom we are connected, to whom we owe obligations, and against whom we might claim rights. They create, in effect, a cosmopolitan community of reciprocal rights and duties which are expected as Andrew Linklater (1998:26) points out transcend the morally parochial world of the sovereign state.[87]

To borrow Andrew Dobson's felicitous phrase, causal responsibility for local and transnational harm creates the 'thickness of materiality', as opposed to the 'thickness of culture'. In others words, just like the communitarian emphasises shared traditions and a conception of the good (thickness of culture), as the basis for the emergence of justice issues, shared vulnerability and causal responsibility for harm (thick materiality) create a basis for raising the issues of justice among the individuals so connected.[88] He explains further,

> Causal responsibility (for harm) produces a thicker connection between people than appeals to a common humanity, and it also takes us obviously out of the territory of beneficence into the realm of justice. If I cause someone harm I am required as a matter of justice to rectify the harm.[89]

In short, causal responsibility for harm triggers obligations of justice just as shared traditions and community. Put schematically:

If agent X (X being a moral agent) is responsible for the harm inflicted on Y (Y being a moral agent). Then X necessarily incurs the duty of justice to rectify the damage suffered by Y as a result of the harm.

If the argument presented above is sound, it, then, follows that justice may well be a pre-institutional norm, and ought not to be tied exclusively to some special institutional or associational ties, as Rawls and the communitarians imply. The frontiers of justice are, therefore, not coterminous with boundaries of national or domestic communities. This is because in this age of interdependence, it is possible to generate transnational harm on a more frequent scale; thus, we must develop the concept of transnational or global justice. Lorraine Elliot is to the point when she says that in a globalised world,

transnational harm deterritorialises risks which demand a deterritorialised understanding of the nature of rights and obligation.[90]

In the foregoing, we have already hinted at the argument for Global justice from the principle of harm and rectification. We shall now make the argument more explicit for the purpose of clarity.

(a) *We ought not to inflict harm on others.*

(b) *When an agent A inflicts harm on agent B, agent A necessarily incurs the obligation (of justice) to repair the loss suffered by B as a result of the harm.*

(c) *Harm is a spatially situated occurrence: it could take place within a nation in which case it is "domestic" harm. However, in the globalizing world, harm is increasingly transcending national borders, in which case harm is transnational.*

(d) *Transnational harm requires rectification just as domestic harm does, so it is morally immaterial whether the harm in question is domestic our transnational. Thus, agents (states, individuals, multinational corporations, etc.) responsible for inflicting transnational harm necessarily acquires transboundary obligation of rectification.*

(e) *Thus, we could appropriately speak of transnational or global justice.*

Premises a and b simply affirm the well-established moral intuition that we ought not to harm others, or the non-harm principle which we have extensively discussed in this chapter. The third (premise C) describes an incontrovertible empirical fact about the spatial situatedness and the increasing deterritorialization of harms in the interconnected global village, in which we presently live. On the strength of this premise, we conclude that the notion of global justice is conceptually coherent and, therefore, contrary to the argument of the postmodernist, the communitarian and Rawls. The notion of justice is quite relevant and applicable on the global arena of transnational relations. In fact, to argue in the contrary is tolerate a world where transnational and domestic harm could be inflicted on the vulnerable with impunity, a

patently unjust world characterized by the ethics of power, where only might is right. It is in this consideration of the transnationalisation of risks and harms that cosmopolitan thinkers are beginning to mount serious challenge to the traditional conception of justice in conventional political philosophy which tends to confine the analysis of justice to the territorial bounded, or what Nancy Fraser described as the Keynesian-Westphalian frame reference.[91] On the need to reconceptualise our understanding of justice in line with the awareness of our common vulnerability to transnational forces, Fraser has this to say:

> Under these conditions, the Keynesian-Westphalian frame of reference no longer goes without saying. For many it has ceased to be axiomatic that the modern territorial state is the appropriate unit for thinking about issues of justice, and that the citizens of such states are the pertinent subject of reference. The effect is to destabilize the previous structure of political claims – and therefore to change the way we argue about social justice.[92]

Indeed, the quotation above captures something of the cosmopolitan spirit and its understanding of justice. A core cosmopolitan claim is that the ultimate unit of moral concern are human beings or persons and not family, tribes, ethnic or even national communities.[93] By extension, therefore, cosmopolitans argue that considerations of justice ought not to be confined to parochial communities, such as nation states; rather, justice, as a category, must be applied to the community of humanity as a whole. Our objective in this chapter has been to show that by deterritorialising harm, global processes and forces have made cosmopolitan or global justice an imperative, a necessary condition for constructing a just world characterized by peace and equity.

Conclusion“

In this chapter an attempt has been made to develop a minimalist account of justice that emphasises rectification of harm rather than redistribution of resources. In order to arrive at our minimalist account of cosmopolitan or a theory global justice that commands acceptance across philosophical schools, religions and cultures, the chapter takes as its starting point the twin principles of “non-harm” and “rectification”, two principles that are relatively uncontroversial moral imperatives. Beyond identifying the

principles of non-harm and rectification as building blocks for a theory of cosmopolitan justice, effort was made to specify the theory of causation adopted by this thesis; simply stated, moral responsibility is attributed to a moral agent whose action is either necessary and sufficient cause of, or contributory to, an injury. To demonstrate the universal endorsement of the non-harm principle the chapter provides evidence that religions as disparate as Buddhism, Christianity and Confucianism affirm the non-harm principle, just as philosophers from the ancient to the contemporary era. The chapter also argue that the principle of rectification is a long standing principle of morality in philosophical reasoning and thus examines Aristotle and Robert Nozick's treatment of the principle. From a combination of the notions of harm and rectification a minimalist account of cosmopolitan justice was developed which required the rectification of transnational harm that has become increasingly possible in the age of globalization.

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[11] Partridge. 1976. 11.

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[13] Buchannan, A. 1987. Justice and charity. *Ethics*. 97.3: 559.

[14] The terms Charity, assistance and beneficence are often used interchangeably in the literature Buchanan in *Justice and Charity* employs Charity while Loriaux in Beneficence and Distributive Justice in a Globalising World prefer beneficence.

[15] I owe this point to Laura Valentini.

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[18] The dichotomy, which is found in the work of thinkers as divergent as Kant and Mills, holds that the duties of justice are perfect while duties of charity are imperfect.

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CHAPTER FIVE

A MINIMALIST ACCOUNT OF COSMOPOLITAN JUSTICE: JUSTIFICATION AND APPLICATION

Introduction

In contrast to the various accounts of global justice which have been developed by cosmopolitan philosophers, we have, in the preceding chapter, constructed a minimalist account of global justice which is underpinned by the twin concepts of non-harm and rectification. Expectedly, our minimalist account of global justice shares certain similarities with the other cosmopolitan accounts of global justice, be it the Rawlsian-inspired, the deontological and the utilitarian versions. Significantly, however, our minimalist account is different from the mainstream cosmopolitan accounts in some crucial respects. We shall give some clarifications on this difference in the discussion that follows. However, we shall, firstly, consider some fundamental questions which may be raised against our minimalist account of cosmopolitan justice, given that literature is already awash with mainstream accounts. Put differently, the question could be asked: Why is another account of cosmopolitan justice necessary? What advantages, if any, does our minimalist account of justice have other on other accounts? How, to be more specific, does our account handle the criticisms of cosmopolitan justice by the realists, the communitarians and John Rawls? In short, what is the justification for our minimalist account of cosmopolitan justice?

In order to answer the questions outlined above, this chapter has been structured into three sections. The first will highlight the advantages that our account of cosmopolitan justice has over rival accounts. The second will raise potential objections to our theory of justice and also provide a defence against such objections. In the final section, we shall apply minimalist account of cosmopolitan justice to the well-known problem of global climatic change, with specific focus on global warming.

On the nature of justification

By way of prelude to the justification or defence of our minimalist theory of cosmopolitan justice, it would be helpful to make some preliminary observations about the nature of justification in the philosophic enterprise.[1] According to Richard Creel, justification consists in providing sufficiently good reasons for holding a position such that no rational person will criticise you for holding such a position.[2] This, of course, does not imply that such positions are perfect or unexceptionable: a good justification only promotes the possibility that unbiased rational agents would see the logic of one's argument, even if they disagree with the conclusion. Beyond the logic of the positions to be justified, John Rawls indicates that another major strategy of justification of ethical claims in philosophy is to demonstrate the self-evident nature of the first principles from which a sufficient body of precepts and standards can be derived. Here is Rawls' expatiation on this sort of justificatory strategy:

> A justification of this kind we may think of as Cartesian. It presumes that first principles can be seen as true, even necessarily so; deductive reasoning then transfers this conviction from premises to conclusion.[3]

With specific reference to the justification of his conception of justice, Rawls makes the following instructive statements:

> Being designed to reconcile by reasons, justification proceeds from what all parties to the discussion hold in common. Ideally to justify a conception of justice to someone is to give him a proof of its principles from premises that we both accept, these principles having in turn, consequences that match our considered judgments. Thus mere proof is not justification. A proof simply displays logical relations between propositions. But proofs become justification once the starting points are mutually recognized or the conclusion so comprehensive and compelling as to persuade us of the soundness of the conception expressed by the premises.[4]

We have in the preceding chapter argued, severally, that the non-harm and the rectification principles, upon which our account of global justice is built, are notions which are generally accepted across cultures and philosophical outlooks. Thus, there are no societies which regard deliberate or wrongful infliction of harm on others as

morally permissible. One point that is clear from our discussion of non-harm principle is that in spite of the diverse conception of the good, it is possible to arrive at some consensus about the moral validity of the non-harm principle. Richard Vernon puts the point elegantly:

> In its appealing minimalism the proposal of global harm principle is continuous with the archetypal use of "harm" by Mill in *On Liberty*. For Mill proposed the appeal to "harm" as way to accommodate the diverse views of life …In the global context as in *On Liberty* then, the harm principle is intended as a strong but minimally divisive restraint, potentially supported by consensus, that recognizes two equally indispensable considerations: the other-regarding nature of our actions and the otherness of those whom our actions affect.[5]

Indeed, our negative obligation not to harm others wrongfully enjoys such a universal endorsement that it approaches what Rawls describes as an overlapping consensus. In Rawls' account, overlapping consensus is achieved when in the context of reasonable pluralism, citizens support the same basic principles for different reasons. He argues that while people may reasonably and rationally hold vastly different religious, philosophical and moral beliefs, they could also all arrive at a free-standing principle that is nonetheless consonant with their different worldviews.[6]

Again, we have shown in the preceding chapter that the principle of non-harm, the foundation for our minimalist account of justice, has been affirmed and articulated from within religions as diverse as Christianity, Buddhism and Confucianism, as well as in secular philosophy. The plurality of religious and secular worldviews, notwithstanding, the principle of non-harm represents an overlapping consensus, which makes it a most suitable principle for developing a theory of justice. In fact, if we invoke the Rawlsian-thought experiment, based on the original position and the veil of ignorance, and we limit the choice of the agents under the veil to two main principles, namely, the principles of indifference to the interest of others and non-harm, not knowing how they will turn out in real life, all the agents will choose these latter.

Indeed, there is a sense in which the principle of non-harm is more persuasive and more fundamental than the principles of liberty and difference that Rawls argues for in

A Theory of Justice. For one, Rawls' principles of justice might be criticized as an utopian abstraction, given that in the real world people have full information about their present status. Thus, the highly placed and the advantaged definitely lack the motivation to endorse Rawls' principles. In contrast to the Rawlsian two principles of justice, we have seen that the principle of non-harm, even with the full information of their present conditions, is adopted along cultural, spiritual and philosophical divides. For another, Rawls' principles, boiled to their essence, may be reduced to the idea of non-harm. If we take the difference principle, which is meant to protect the vulnerable, least advantaged people in society, it could be argued that failure to protect the vulnerable against the vagaries of social inequalities amounts to harming them. Thus, at the most fundamental level, Rawls' principles of justice point to the non-harm principle.

Having made the point that our minimalist conception of justice is validated, to a large extent, by the fact that it is based on the non-harm principle, a principle which is persuasive across cultures and worldviews, we shall proceed to another form of defense for our preferred account of cosmopolitan justice. This will focus mainly on enumerating the advantages that the minimalist account of cosmopolitan justice has over its main rivals.

The advantages of minimalist account of cosmopolitan justice over its main rivals

The first major advantage of the minimalist account of cosmopolitan justice (MACJ) is that it renders superfluous the standard argument that is often raised against cosmopolitan justice, that is, the objection that distributive requirement of cosmopolitan justice is over-demanding. The charge of over-demandingness has been raised against Singers' version of cosmopolitan justice, in particular, because he fails to specify a reasonable limit to the affluent's universal duty to participate in schemes designed to alleviate global poverty.

In the same vein, Rawls has accused the redistributive accounts of cosmopolitan justice of Beitz and Pogge, of failing to stipulate the cut-off points that will determine when the duties of justice to the global poor have been satisfied. The MACJ sidesteps all these objections to cosmopolitan justice by simply emphasizing that the basic minimum

that global justice demands is a rectification of harm inflicted on the poor or any other groups or persons. The minimalism underpinning the theory of justice, defended in this dissertation, does not only render consensus possible across cultural and philosophical divides, but also undercuts the argument that cosmopolitanism is over-demanding.

Rawls' attack on cosmopolitan justice, related to the over-demandingness argument, on the ground that global redistribution undermines the self-determination and autonomy of states whose ingenuity and industriousness have led to economic posterity. Just as in the first case, this objection does not apply to the MACJ. Any agent, collective or individual, required by the demands of justice to rectify or repair losses that they have inflicted on their victims cannot claim that the compensation involved in the whole process amounts to a violation of self-determination. Thus, by adopting MACJ, we escape Rawls' major criticism against cosmopolitan justice.

Another major advantage of the MACJ is that it is not vulnerable to the argument often raised by communitarians to the effect that cosmopolitan justice violates the principle of compatriot's priority. The compatriot priority principle, simply put, states that "people are permitted to be partial to their own nations and fellow-nationals because they stand in a special relationship with them."[7] On the other hand, the moral universalism underlying theories of cosmopolitan justice demands that all human beings should be seen as having a global status, as the ultimate unit of moral concern and therefore should be accorded equal respect and consideration regardless of their citizenship or national affiliation. Put side by side, the principle of compatriot priority sits uncomfortably with the moral universalism of cosmopolitan justice. Thus, the latter has been severally criticized on the account of the former. With the adoption of an MACJ, however, the conflict between compatriot priority and moral universalism disappears and the criticism of cosmopolitan justice based on compatriot priority also lapses into redundancy. While the MACJ does not prohibit the practice of compatriot's partiality, it certainly prohibits the wrongful infliction of harm on non-compatriots. In short, the MACJ accommodates compatriot favouritism and moral universalism in such a way that resolves the tension between the two principles.

Yet, another edge that the MACJ does have over the Pogge and Beitz accounts of global justice stems from the fact that it conceptualises justice as a pre-institutional principle. To understand this poi-nt, it is necessary to recall the fact that Pogge adopts an *institutional* rather than an *interactional* approach to cosmopolitan justice. In the institutional approach, the agents of justice are states or societies. Thus, as a normative principle, justice is exclusively meant to evaluate the morality of social and political institutions. In contrast to the institutional, the interactional approach focuses on individual agents, groups, collectives and corporations. The moral responsibility of these agents largely depends on the causal impact of their action and inaction on other people.

The problem with the institutional perspective adopted by Pogge is its failure to comprehensively cover the entire field of potential injustice. It is for this reason that Simon Caney, for instance, avers that one major flaw of the institutional approach is its inability to give account of one's responsibility to persons who do not belong to one's institutional scheme.[8] Pogge's institutional approach to cosmopolitan justice is rather narrow; as such, it literally ignores all injustice and unfair treatment that are found at the level of interpersonal relations. A related unsavoury implication of Pogge's institutional approach is that if we do not belong to the same institutional schemes, the questions of justice cannot arise between us. This implication is definitely untenable in the age of transboundary harms where action in one locale can affect people who are thousands of miles away.

The MACJ is superior to Pogge's position on this count, since it combines both institutional and interactional perspectives. This way, we have a framework of justice that is broad enough to take care of injustice at the institutional as well as the interactional level. David Miller corroborates the wisdom of combining the interactional and the institutional approaches in *National Responsibility and Global Justice*, when he says we ought to understand the demands of justice as applying to us both as "individuals – the personal ethics approach, and as participants in large scale human association including states – the institutional approach."[9]

Beyond the advantages highlighted above, we may add that the MACJ is on firmer justificatory grounds because it is based on appeal to what Dobson Calls "thick materiality" rather than to our "common humanity."[10] One of the fundamental objections to cosmopolitan justice, and, in fact, the entire body of cosmopolitan thinking, stresses the psychological hollowness of demand that we expand our affinities, affections and concern to cover all human beings. Those who critique cosmopolitan justice on this count argue that cosmopolitan's advocacy of impartiality towards all humans fails to come to terms with the fact that the special ties and affections that our family friends and fellow countrymen enjoy is a psychological fact, which cannot be wished away by utopian philosophical theorizing.

This criticism does not by any means apply to the MACJ. This is because, rather than emphasise our common humanity and the need to extend the frontiers of our concern to the brotherhood of humanity, it stresses causal responsibility as the basis for justice claims. In other words, as expressed in the thesis of this dissertation, regardless of associational or institutional ties, causal responsibility for harm is sufficient or "thick" enough to trigger issues of justice between the perpetrator and the victim. The MACJ is superior to the other cosmopolitan accounts of justice, and even the communitarian accounts, in that it does not ground justice relations on controversial notions, such as shared culture or common humanity. Rather, it argues that justice issues are triggered by the thick materiality of the connection between the violator of the non-harm principle and the victim of the violation in question. While we could question the relevance of shared culture and shared humanity to justice, it is evident that the wrongful harm immediately raises the justice issues of rectification.

With this last point, we shall move to another set of justifications for the MACJ. The approach here will seek to show the superiority of the MACJ *vis-a-vis* other accounts of global justice by highlighting how it answers the objection raised against cosmopolitan justice by the realists, the communitarians and John Rawls.

MACJ and objections to cosmopolitan justice

The realists, as mentioned earlier, oppose the notion of global justice on the grounds that the international realm is characterized by Hobbessian anarchy and the absence of

an international sovereign that can sanction violation of treaties. According to the realists, given this state of affairs, states will exclusively pursue their interest without giving consideration to normative issues. Put differently, or more explicitly, the argument is that given the absence of an international sovereign, talk of global justice is an exercise in futility because it cannot be enforced. The issue here may simply be described as the practical problem of enforcement, which consequently raises the question of the feasibility of global justice. We have taken up this matter in the third chapter from a more general level; but here, we will address the issue with specific reference to the MACJ. We must concede to the realists that the absence of an over-arching global authority makes the coordination and enforcement of the MACJ difficult. The situation is not however hopeless. We must recall Pendleburry's argument that the 20th century has witnessed the rise of the multiplicity of non-state and supra-state actors and organizations whose activities shape our lives and provide incentives to conform to social norms.[11] If Pendleburry's observation is correct, it follows that the harm and the rectification principles, which are at the core of the MACJ, set the moral limits to the national pursuit of power and interest at the international level. More significantly, given the self evident nature of the harm principle, its wanton violation is likely to be infrequent in international affairs. Incentives to violate international law and morality are definitely higher when states find themselves acting in the grey areas of morality.

Having attempted to provide a response to the realist objection to cosmopolitan justice from the point of the MACJ, we may now turn to the communitarians, who arguably are the arch-rivals of cosmopolitanism. For the communitarians, the idea of global justice is conceptually flawed either because justice requires shared culture, traditions and understandings, features which are lacking in the global arena, or because the world's cultural complexity renders infeasible the development of a transcultural account of global justice. With the construction of the MACJ, even if we concede the communitarian point that shared tradition and nationality are crucial to the emergence of justice, what we have done is to show that the communitarian understanding of justice does not necessarily exhaust all the possible avenues for the emergence of justice issues. Again, the thick materiality of the connection between the one who harms and the one who is harmed necessarily gives rise to the issues of justice. To the

relativist's variant of the objection against global justice, articulated so deftly by Michael Walzer, what the MACJ represents is just the transcultural account of global justice which Walzer claims is impossible.

With the combination of the non-harm principle, which appears to enjoy universal acceptance and the empirical fact that harm is increasingly becoming transnational in our global village, we arrive at the MACJ. We are of the view that given the minimalism of its demands, David Miller and Michael Walzer are likely to endorse the MACJ. In fact, in their recent writings, these popular communitarians appear to have relinquished their hard-line stance against global justice. In his *National Responsibility and Global Justice*, Miller advances the idea that Global justice requires respect for the principle of a 'global minimum', that is, a set of human rights which must be protected for people everywhere, regardless of their circumstance. This, therefore, may impose obligations, especially, on rich nations[12.] The list of the basic rights he identifies includes rights to subsistence and a negative duty not to contribute to severe poverty. To be sure, Miller's basic rights account of global justice is more demanding than the MACJ. If he can propose such a demanding idea of global justice, then, he is very likely to endorse the MACJ, which is less demanding. In *Local and Global Justice*, Walzer argues that "one of the goals of justice right now is to provide people around the globe with sufficient resources so that they can act on their own behalf...."[13] If Walzer tacitly endorses subsistence rights, it would amount to an inconsistency to reject the MACJ, which is built on the less demanding notions of non-ham and rectification.

As we have indicated in Chapter Three, John Rawl's *Law of the Peoples* set forth a number of objections against cosmopolitan justice. In the end, he submits that duties of justice do not arise in the global arena. For Rawls, all that we can hope for is a duty of assistance from the economically prosperous countries to decent but burdened societies. Interestingly, the position that we ought to assist vulnerable societies and individuals, as an act of beneficence, has never been in dispute. The controversy has always centered on the question of whether the obligation to alleviate poverty is a duty of justice or not. However, the implication of the MACJ, for Rawls' restriction of duties to that of assistance, is that while Rawls may have addressed the duty of humanity or beneficence, it is silent on the issue of the duty of justice at the global level. If it is the

case that transboundary harm requires rectification, and there are indeed transboundary harms taking place in our world today, Rawls overlooks an important effect of cross-border interaction. Such interactions give rise to the question of justice. Indeed, Rawls' reluctance to conceptualise global justice stems from his assumption of explanatory nationalism, according to which internal factors are seen as the basic determinants of a nation's economic wellbeing. If Rawls had paid sufficient attention to the phenomenon of transboundary harm, he would have clearly seen that there are injustices taking place in the global arena, a fact which would have informed his account of justice in the *Law of peoples.*

As part of this study's justification strategy or defence of MACJ, we shall examine, in the next section, some of the possible objections that might be levied against it, with the aim of constructing reasoned answers to such objections.

Addressing potential objections to MACJ

One fundamental objection that could be raised against the MACJ is the contention that it is built on an illegitimate move which reduces the idea of justice to that of harm. This move for the critics is unsuccessful because "harm" and "justice" are two distinct concepts which cannot be reduced to each other. We may call this *the illegitimate reduction argument.* It could, however, be argued that proponents raise such objections only because they have failed to take into cognisance the conceptual connections between harm, justice and injustice. Though harm and justice are two analytically distinct concepts, they are closely related. To define 'harm' as the "violation of fundamental interest"[17] is certainly broader than the idea of justice, for we can actually distinguish between justified and unjustified harm. Justified harm, for example, is inflicted when a criminal receives legal sanction for offences committed. A case of unjustified harm, for example, is when you refuse to pay me for a job I have done to your satisfaction. Interestingly, all cases of wrongful harm are also instances of injustice. We may sum up this in the following maxim: not all harms are instances of injustice, but all instances of wrongful harm are also instances of injustice. If this maxim is correct, it would appear that to reduce justice to the question of wrongful or rightful harm is not to arbitrarily reduce justice to the concept of harm. In any case, we

need to recall Cicero's contention, as cited in the preceding chapter, that the first demand of justice is to do "no harm to others unless provoked by injury."[14] If non-harm is the first demand of justice, then, justice and harm are related.

O'Brian on harm and distributive justice

In an interesting, relatively recent article, Williams O'Brian Jr. seeks to demonstrate the implication of the principle of harm for distributive justice. For those who argue that the harm principle has nothing to do with the concept of justice, O'Brian's work offers a definitive rebuttal of their position. By focusing on justice in the acquisition of property, O'Brian is able to show, convincingly, that the recognition of the harm principle, on the one hand, outlaws illegitimate initial acquisition of property. On the other, when illegitimate acquisition takes place, it is due to a violation of the harm principle. It would be appropriate to set forth his argument in some detail.

O'Brian begins with the assumption, which concurs with our view in this thesis, that the harm principle is not just a limitation of permissible government interference with individual freedom, but also places an obligation on individuals not to limit each other's freedom.[15] With specific reference to original acquisition, a stage which forms a basic plank of Robert Nozick's entitlement theory of justice, O'Brian argues that when we violate the Lockean *proviso*, or Nozick's whittled down version of it, we violate other people's sovereignty, or, we harm them. The implication then is that the harm principle prohibits and prescribes certain types of distribution pattern in society. In fact, O'Brian concludes that, taken to its logical conclusion, the harm principle leads to left-liberalism – a system of distribution with the overarching purpose of ensuring that each person is provided with the means to live his/her life without being dominated by others. Under such a system, lands and natural resources, or at a minimum, the value thereof, are distributed in such a way that each person has enough at least to meet his/her basic needs.[16]

To support his position, O'Brian provides a number of thought experiments. To see his point, let us examine one that he borrowed from Bruce Ackerman:

> You and I are walking in a Garden, both hungry, and we come upon two apples on a tree. You take them both and

> eat them, I am justifiably upset. Ackerman thinks equality is the principle violated here. I have a different explanation. You have harmed me by eating both apples.[17]

In essence, then, any original acquisition that reduces the stock of resources left for the appropriation of others necessarily violates the harm principle. Since most historical acquisition of property, as Nozick himself admits, violates the principle of just acquisition, the harm principle requires substantial redistribution of the present holding. In the light of the above, it becomes quite clear, therefore, that the objection that the MACJ arbitrarily reduces "justice" to "harm" cannot be sustained. As we have shown, the harm principle does have fundamental implications for distributive justice.

The second and common objection which might be raised against the MACJ is that its endorsement of a globalised non-harm principle and its cosmopolitan outlook is meaningless unless it also involves a commitment to a world state or government which could help to enforce the principle. According to Kliengeld, this argument is not only ahistorical, but also a straw. Historically, cosmopolitanism arose as a way of life.[18] Thus, when Diogenes declared himself as the citizen of the world, he only made a statement that indicated his withdrawal of loyalty to Sinope, which should not be construed as endorsement of world government. The globalised harm principle underpinning the MACJ should not be interpreted as entailing a commitment to a world state. MACJ is a version of moral cosmopolitanism, and, as such, it is distinct from institutional cosmopolitanism

We have pointed out earlier that institutional cosmopolitanism "holds that the world political structure be reshaped so that states and other political units are brought under the authority of supranational agencies of some kind."[19] On the other hand, moral cosmopolitanism only provides a moral basis for evaluating "the aptness of the particular kinds of institutions for ensuring that cosmopolitan ethical principles of the equal worth of all human beings as world citizens are honoured in both political theory and practice."[20] That moral cosmopolitanism does not necessarily imply an endorsement of a supranational sovereign is a position that is supported by history. As Derek Heater puts the point:

> …because citizenship as a status and sense of identity relates the individual to the state, it follows that a world citizen could hold that title only as a member of a world state. Yet (with the exception of Dante, in a totally different medieval setting) no cosmopolitan thinker of any distinction – neither Marcus nor Kant, nor present day scholars – has envisaged a single global state.[21]

If cosmopolitans never really recommend world state as means for enforcing cosmopolitan values, the recognition of a global non-harm principle does not either. At the most extreme, what the recognition of the MACJ demands, in terms of institutional arrangement, is the strengthening of the existing supranational institutions, such as the UNO and various regional organisations that can enforce the rectification of transnational harm, and not the creation of a world government.

The MACJ and the problem of global climate change

That the world's climate is gradually undergoing profound changes, which might result in the infliction of serious harms on humanity, is now a matter of near international consensus. One of the most authoritative voices on the problem of global climate change, the Governmental Panel On Climate Change (IPCC), maintains, for instance, that global temperature is increasing and can be predicted to rise further over the next century. The IPCC specifically estimates that if the current emissions of green house gases continue, there would be a likely rise in mean temperatures of the order of 2.4 – 6.4^0C by 2009.[22] It is for this reason that the 1997 Kyoto protocol commits the developed countries, the major culprits in the emission of green-house gases, to cutting their emissions by an average of a 5.2 percent from a 1990 baseline.[23] If the world fails to cut down on emissions at the present level and the pollution of the global atmosphere continues unabated, the effect may be catastrophic, as Louis Pojman puts it:

> The earth has begun to get warmer; by current trends the polar ice caps and the glaciers will gradually melt, causing the ocean's level to rise by several feet. With this melting million of people living on islands and along coastlines would be displaced as their land becomes flooded by the rising ocean.[24]

Global climate change and the consideration of its potential effect on human life pose a considerable ethical challenge and raise important moral questions. Does the present

generation, for instance, have a duty to refrain from harming the future generation through global climate damage? What rights do people have to continue to emit damaging substances into the global atmosphere, if we have such a right? How much carbon dioxide and other greenhouse gases are we entitled to emit?

Aside from these important questions above, Henry Shue, in several of his articles, has posed four fundamental questions that may guide discussions on the subject of justice and global climate change.

What is a fair allocation of the cost of preventing global warming that is still available?

What is the fair allocation of the cost of coping with the social consequences of the global warming that will not be avoided?

What background allocation of wealth would allow international bargaining to be a fair process?

What is the fair allocation of emissions of greenhouse gases? (over the long term and during the transition to the long allocation).[25]

All the questions listed above are, no doubt, very important questions which must ultimately be addressed in any fair multilateral negotiation over how to tackle the problem of global climate change. Since it will, perhaps, take another full dissertation to deal with all these important questions, it is obvious that we cannot examine all these philosophical questions here. Given that our aim is to demonstrate the usefulness of the MACJ in addressing practical problems of ethical decision making, we shall concentrate on only one question – What is the fair allocation of cost for preventing further global warming? In other words, what does the MACJ tell us about the just distribution of responsibilities for the prevention of damaging global climate?

The first point to be made is that if we continue to pump green house gases into the atmosphere at the present rate, we will inflict serious harms on many human beings, and these are harms that we have a basic duty to avoid. If this assertion is true, then, MACJ, which emphasizes the non-harm principle, prohibits continued emission of

dangerous gases into the atmosphere as it is presently done. The second point to be made is that, given the stress that the MACJ puts on the need for rectification when harm is already inflicted, we may infer that failure to address climate change is not a violation of the positive duty to aid; rather, it is a contravention of the more stringent negative duty not to harm. The flip side of the above submission is that justice requires the rectification of the damage done so far to the global atmosphere.

This brings us to the crucial question of how to share the responsibility for preventing further global warming. In the bid to answer this important question, it is pertinent to note that multilateral negotiations have produced a number of agreements and, of course, disagreements about the just allocation of cost for preventing further global climatic degradation. We shall briefly discuss these agreements before indicating how the MACJ will distribute the responsibility for rectifying global climate damage.

Arguably, the first major significant international initiative to deal with global environmental problems was the 1992 UN Conference on Environmental Protection and Development in Rio de Janeiro.[26] After robust negotiations by delegates at the conference, some 166 countries signed the climate treaty which established a framework for reducing greenhouse gases emission, with a view to stabilising global atmospheric pollution and, consequently, reducing global warming.

Unfortunately, beyond extracting a general commitment for the reduction of greenhouse gas emissions, the 1992 climate treaty did not set specific or binding targets for states. Thus, it was not surprising that the treaty had little or no significant impact on global carbon emission. It became imperative that to forestall a global ecocatastrophe, a more demanding and more specific convention of climate control needs to be developed. It is this imperative that gave birth to the Kyoto protocol of 1997.

Essentially, the Kyoto protocol demanded that industrialised countries reduce their greenhouse emissions by 5 percent below their 1990 levels, latest by the year 2012. In the pursuit of this general goal, the protocols specify significant cuts for the major industrial nations. The EU was to cut her emission by 8 percent, the United States by 7 percent and Japan by 6 percent. Interestingly, no targets were imposed on China, India

and other developing countries.[27] Unfortunately, on the account of these exemptions, coupled with the consideration of the potential economic consequences of curbing greenhouse gases emissions, the US, under the George W. Bush administration, pulled out of the Kyoto protocols. Arguing for the need to balance the demands of environmental protection and economic growth, the US, instead, settled for a more flexible approach, what has been dubbed as the carbon intensity approach.[28]

According to the carbon intensity framework, the US will commit herself to cutting greenhouse gas emission by 18 percent within a 10-year period, beginning from 2001.[29] The 18 percent mentioned here is to be understood as the ratio of emissions to economic growth. With the adoption of conservation strategies and the use of cleaner environmentally friendly technologies, the US hopes to cut down on the emission of greenhouse gases without jeopardising her prospects for economic growth. What is interesting about the carbon intensity proposal is that it provides a technical avenue for the US to effectively repudiate its commitments to the reduction of global warming. This is because, in real terms, reduction in carbon intensity imposes no real restrictions on the future emission of the United States. As most analysts had correctly observed, advances in the use of green technologies will on its own improve the nation's efficiency by 1.8 percent.[30]

Aside from the specific requirement of the Kyoto agreement and the carbon intensity approach, the *Per-Capita Emission Principle* was another proposal on how to distribute the cost of dealing with global climate change, an idea put forward by India, China and the group of 77.

The basic idea underpinning the Per Capital Emission Principle, or the "Equal Entitlement" Approach, is the postulation that every human on earth has equal right to the global atmosphere; therefore, allocations of the entitlement to pollute the atmospheric common should be calculated on per capita basis. Were this proposal to be adopted, the first step required that an environmentally sustainable per capita "emission budget" be calculated, and once this was done, every global citizen would be given an equal allotment or entitlement to the use of the atmosphere. The distributive implication of per capita approach is very clear:

> Rich countries whose relatively small populations have already used a disproportionate amount of their atmospheric space, must "contract" their annual carbon budget to a level of roughly one metric ton of carbon equivalent per person over the next century. Poor nations, whose citizens have far occupied very little atmospheric space, are allowed to increase their emissions for some time and eventually "converge" with rich nations.[31]

Interestingly, the per capita approach to carbon emissions allows developing countries, willing to keep their emission below their allotment, to trade the whole or part of their allotment for funding or technical assistance.

Yet, another proposal to allocating the cost of reducing global climate change is the Historical Responsibility Approach. This approach is based on the famous "polluter pays" principle, which has been severally affirmed in a plethora of international legal conventions, such as the Organisation for Economic Cooperation Development (OECD) council's recommendation of May 26, 1972 and the April 21st, 2004 directive of the European Union Council Of Ministers.[32] The "polluter pays" principle "holds that if an agent does something that is harmful to others – pollutes a river with chemicals, for example – the same agent should bear the costs of remedying the harm, either by removing the pollution, if that is impossible, or by compensating the victims."[33]

Taking the "polluter pays" principle as its central assumption, the advocates of historical responsibility approach argue that the cost of reducing Global climate change should be borne primarily by rich industrialised nations, given that, historically, their activities have contributed the most to the present global climate problem. Thus, the 1992 Rio Declaration, in view of the differential contribution to global environmental degradation, affirms that states have common but differentiated responsibilities.[34]

Philosopher Henry Shue remains one of the most vociferous supporters of the historical responsibility approach. According to him, justice demands that industrialised countries principally bear the cost of climate changes. He justifies his position thus:

> Once an inequality has been created unilaterally by someone imposing costs on other people, we are justified in reversing the inequality by imposing extra burdens upon the producer of the inequality. These are two

> separate points here. First, we are justified in assigning additional burdens to the party who has been inflicting costs upon us. Secondly, the minimum extent of the compensatory burden we are justified is enough to correct the inequality previously unilaterally imposed. The purpose of the extra burden is to restore an equality that was disrupted unilaterally and arbitrarily (or to reduce an inequality that was enlarged laterally and arbitrarily.[35]

Anil Agarwal, Sunita Narain, and Aju Sharma provide us with a similar argument:

> Some people have used up more than an equitable share of this global resource and others, less. Through their own industrialisation history and current life styles that involved high levels of GHG emissions, industrialised countries have more than used up their share of the absorptive capacity of the atmosphere. In this regard, the global warming is their creation so it is only right that they should take the initial responsibility of reducing emissions while allowing developing countries to achieve at least a basic level of development.[36]

Having outlined the major principles that have been suggested as the bases for allocating the cost of reducing and preventing further anthropogenically-induced global climatic change, we may now return to the question of how the MACJ would allocate the cost in question.

It takes a little stretch of the imagination to figure that the MACJ supports and justifies the Historical Responsibilities Approach. To see how the MACJ would allocate the cost of reducing initiating global climate change, we only need to recall the non-harm principle and the notion of rectification that underpins the MACJ. In the first place, the MACJ proscribes unjustifiable harm to 'others', where others are defined as all persons, regardless of whether they are compatriots or strangers. Beyond proscription of harm, the MACJ stipulates that where harm has been inflicted, whether in domestic setting or in the international contexts, the perpetrator of the harm necessarily incurs a stringent duty of justice to compensate the victim by repairing or eliminating the damage done.

Now, in the case of global climate change, there is a consensus that the major polluters are the industrialised countries of the world. According to an estimate provided by John Vogler, the USA alone, with only 4.5 percent of global population, is responsible for 25 percent of the total global carbondioxide output. China, with over 20 percent of the

world's population emits 14 percent of the global output, while the 35 least developed countries, with 10 percent of the world's population, account for less than 1 percent of global carbon emissions.[37]

Given that the industrialised nations are the major culprits in the degradation of the global atmosphere, a development which constitutes a threat and potential harm to the whole of humanity, the principle of rectification, integral to the MACJ, demands that the industrialised countries bear the major cost of the prevention of further global atmospheric pollution. This does not, of course, completely exonerate the developing countries from any responsibility toward the improvement of atmospheric conditions. It only implies that equity, fairness and justice, in the light of differential contribution to global atmospheric degradation, require common but differentiated commitment, in bearing the cost of preventing further global atmospheric pollution.

Commentators on the politics of global environmental politics have often suggested that the historic responsibility approach receives the enthusiastic support of the developing countries. This is because their contribution to the global existing stock of carbon dioxide is infinitesimal whereas the industrialised countries have tended to vehemently oppose the approach because of the obvious burden it imposes on them.[38] However, beyond the politics of global climate change, amongst state actors, from an ethical perspective, the "polluter pay principle" or the historical responsibility approach to distributing the cost of preventing global climate change is most appropriate. In fact, the degradation of the global atmosphere and the consequent application of the "polluter pay principle" represent a fine example of global rectificatory justice. It is quite instructive that the language of harm and rectification features significantly in Shue's analysis of the problem.

In the process of industrialisation and the accompanying resource-expensive lifestyle, the developed countries have inflicted major global damage upon the earth's atmosphere. Both kinds of damage (partial destruction of the ozone layer and the intensification of global warming) are harmful to those who did not benefit from Northern industrialisation as well as to those who did. Those societies whose activities have damaged the atmosphere ought to, according to the principle of equity, bear

sufficiently unequal burdens, henceforth, to correct the inequality that they have imposed.

CONCLUSION

In essence, equity from the point of view of MACJ, demands that the countries that have inflicted most of the environmental damage on the global atmosphere, and have benefited therefrom, ought to bear the greater cost of rectifying the damage in question. If this argument is ethically sound, it follows, therefore, that the industrialised nations, who have benefitted economically from the disproportionate use of the global atmosphere, owe the poor countries the duty of preventing global atmospheric pollution. This is the basic minimum that the MACJ requires. Although Shue has argued elsewhere that the mitigation of global warming will require technology transfers and financial relief for poorer countries, in order to enable them cope with the emerging effects of current levels of global warming, we would not pursue that argument here.[39] Sufficient for our purposes here is to note that the MACJ supports the notion of common, but differentiated, responsibility, in the allocation of cost for the prevention of further global atmospheric degradation.

Endnotes

[1] Here I follow John Rawls closely.

[2] Creel, R. 2001. *Thinking philosophically*. Boston: Blackwell. 107.

[3] Rawls, J.1999. *A theory of justice*. Cambridge: Harvard University Press. 506.

[4] Rawls. 508.

[5] Vernon, R. 2010. *Cosmopolitan regard: political membership and global justice*, New York: Cambridge Unipress.

[6] Rawls for instance argues that while people may reasonably and rationally hold vastly different religious, philosophical and moral beliefs they could also all arrive at a free-standing principle that is nonetheless consonant with their different worldviews.

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[16] O'Brian. 2009. 5.

[17] O'Brian.2009. 23.

[18] Kliengeld, P. and Brown, E. 2006. Cosmopolitanism. *Stanford Encyclopedia of Philosophy*. Retrieved Nov. 2, 2005. from www.Stanford.edu.

[19] Beitz in Heater, D. 2002. *World citizenship: cosmopolitan thinking and its opponents*, see Heater. 8.

[20] Heater.2002. 9.

[21] Heater.2002, 19-20.

[22] Vogler, J. 2011. Environmental issues. *The Globalization of World Politics*. J. Baylis, S. Smith and P. Owens Eds. Oxford: Oxford University Press.361.

[23] Vogler, J. 2011. 362.

[24] Pojman L. 2000. *Global environmental ethics*, London: Mayfield. 253.

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[26] Amstutz, M. R. 2005. *International ethics*, New York: Rowman and Littlefield 198.

[27] Amstuz. 200.

[28] Timmon, R. and Parks, B. 2007. *Climate of injustice*, Cambridge, MA. : MIT. 142.

[29] Timmon, R. and Parks. 143.

[30] Timmon, R. and Parks. 144.

[31] Timmon, R. and Parks. 145.

[32] Caney, S. 2010. Cosmopolitan justice, responsibility and global climate change. Climate Ethics Gardiner, SM, Caney, S. Jamieson D and Shue H. Eds. New York: Oxford University Press.. 125.

[33] Miller, D. 2008. Global justice and climate change: how should responsibilities be distributed? The Tanner Lectures on Human Values, delivered in Tsinghua University, Beijing. 126.

[34] Caney, S. 2010.138.

[35] Caney. 132.

[36] Caney. 133.

[37] Vogler, J. 2011. Environmental issues. *The Globalization of World Politics.* Baylis, J.,
Smith, S. and Owens, P. Eds. Oxford: Oxford Unipress..362.

[38] Vanderheiden *Atmospheric justice*, Timmon, R. and Parks 2008. Heater, D. 2002. *World citizenship: cosmopolitan thinking and its opponents*. New York:

[39] Shue, H. 1992. The unavoidability of justice. *The international politics of the environment.* **A.** Hurrel and B. Kingsbury. Eds. Oxford: Clarendon Press.373-397

CONCLUSION

The primary purpose of this dissertation is to construct and articulate an account of global justice which could be a basis for regulating transnational relations. As we hinted in the body of this essay, as globalizing forces and processes increasingly deepen and expand the cross border interactions amongst societies and people on the planet, cosmopolitan theorists did not only begin to question the exclusive focus of traditional political philosophy on a territorially bounded conception of justice, they also proceeded to develop accounts of global justice. Thus, Peter Singer provided an utilitarian theory of global justice, Henry Shue and Onora O'Neill developed the deontological account of the same while Beitz and Pogge furnished us with a Rawlsian account. While all these attempts at constructing the principles of global justice succeeded in overcoming the bias of methodological nationalism, that is, the bias of traditional political philosophy in favour of domestic justice, they remain vulnerable to devastating criticisms which appear to undermine their validity.

Communitarians and relativists have argued, for instance, that idea of global justice is invalidated because the fact of global cultural diversity and the ethical relativism that follows from it imply that it would be impossible to construct a theory of justice from an Archimedean standpoint that would be persuasive across cultures. The present dissertation, however, contends that our negative duty "not to harm" and our positive duty to "undo harm when it is inflicted" demonstrate that in spite of the differing conceptions of the good across cultures and the diversity of moral standpoints issuing from these differences, the disagreement over the nature of justice does not lead to radical incommensurability, as ethical relativists would have us believe. In fact, it goes further to show that the non-harm principle is one that is common to, and endorsed across, all cultural, religious and philosophical divides.

In identifying the twin concepts of "non-harm" and "rectification," the dissertation constructs a minimalist account of cosmopolitan justice which only imposes the duty of remedying or rectifying transnational and domestic harms by agents (collective or individual) responsible for the harm in question. Ultimately, then, the theory of justice,

defended in this work, leads to rectificatory duties rather than redistributive duties, which is the standard advocacy of mainstream theories of cosmopolitan justice.

Why global rectificatory justice and not global redistributive justice? The problem with the mainstream cosmopolitan theories of distributive justice is that, often, their premises do not provide sufficient support and justification for redistributing resources from economically prosperous countries to the poor. Thomas Pogge, for instance, argues that rich and powerful nations impose, by way of coercion, an institutional order that harms the poor. He, therefore, concludes that justice demands some form of wealth redistribution from the rich to the poor. There is, however, a fundamental problem with this argument: Pogge's basic assumption, which is similar to the position taken in this work, is the uncontroversial moral principle that persons have a negative duty of justice not to inflict harm on another, but from this he arbitrarily infers the positive duty of redistribution. It is partly for this reason that Rawls criticises cosmopolitan redistributive justice for failing to provide a cut-off point at which the demand of justice would have been satisfied. Obviously, this criticism would have been irrelevant if Pogge had argued *ala* this thesis for rectification instead of redistribution.

It is particularly curious that Pogge fails to arrive at the principle of rectification, given his argument from the effects of a common violent history, which simply states that the social starting positions of the worse-off and the better-off could be traced to a single historical process that was characterized by massive and grievous wrongs, such as colonization, enslavement and even genocide, which saw to the destruction of native institutions and cultures of significant proportion of the world's population. Contrary to Pogge's call for redistribution, this thesis maintains that all that we can "deduce" from the non-harm principle is rectificatory justice. It is for this reason that the title of this research speaks of a "minimalist" account of cosmopolitan justice.

To draw this discussion to a close, we shall briefly provide a summary of the work done in each chapter of this dissertation.

In Chapter One, we sought to arrive at a holistic understanding of the nature and the meaning of justice. We saw that justice, etymologically, refers to "giving each man what is his due." We, also, clarified the important distinctions between "procedural"

and "substantive justice" as well as the differences between "distributive", "commutative', and "retributive justice.". Beyond these basic distinctions, the chapter examined, in some detail, some selected philosophical account of justice from Plato to Rawls. From all these perspectives on justice, we came to the conclusion that one theme that runs through all these accounts of justice is the emphasis that each of them places on justice as a territorially-bounded norm. We, also, highlighted the fact that this notion of bounded justice is increasingly being challenged by cosmopolitan philosophers who argue that there is the need to add a global dimension to our conventional understanding of justice.

Chapter Two examined, in some detail, the meaning of 'cosmopolitanism', the major distinctions that could be drawn in the discourse on cosmopolitanism and the various principles of cosmopolitanism. The second part of this chapter specifically focused on a critical exposition of the various accounts of cosmopolitan justice. In particular, we examined Singer's utilitarian account of cosmopolitan justice. We, also, provided a detailed analysis of the deontological approaches to cosmopolitan justice, as represented in the rights-based approach of Shue and the duty-based approach of O'Neill. Of course, while we acknowledged that the two perspectives may differ in some respects, we concluded that they are actually two sides of the same coin, and such can theoretically complement one another. Finally, we explicated the Rawlsian-based perspective, which provides the foundational inspiration for the accounts of Beitz and Pogge on cosmopolitan justice.

What is interesting about every account of cosmopolitan justice is that every account does have its strength and weakness. Thus, each of the accounts of cosmopolitan justice, which we examined, has been subjected to severe criticisms. Yet, these criticisms are specific to these individual accounts of cosmopolitan justice.

Chapter Three outlined and discussed the plethora of objections, which have been raised against cosmopolitan justice in general. These objections are from a group of scholars which, for the purpose of analytical convenience, and for want of a better label, might be described as anti-cosmopolitan. We examined the position of the realists which rejected any talk of justice, or indeed morality in global relations, on the ground that morality is irrelevant to international relations, since states exclusively pursue national interest and power within the global anarchical order. Our response was that

the image of international hobbessian order, promoted by the realists, is anachronistic. To borrow a phrase from Buchanan, the picture of the world painted by the realist is that of vanished Westphalian order. Our point, of course, is not that states are no more crucial actors on the global stage and that they have suddenly become altruistic; rather, our contention is that the global stage has become populated with a critical mass of non-state actors, and that states pursue the nationalist interest and power with the constraint of the growing corpus of international norms and conventions. To Nagel's particular charge that there is no global sovereign to enforce global justice, we have shown that there is in the world today a network of countervailing centres of power that makes for some considerable level of enforcement, such as the WTO, the UN and myriad of organizations that make up the global justice movement.

We also examined Miller's argument against global justice, which emphasized self-determination and national affinity. Our response to Miller's argument is that national self-determination is only meaningful within the context of just background conditions which guarantee that the self-determination of economically disadvantaged states has not been violated in the first place. We also submitted that the national affinity, which Miller considered as the ground of justice, does not pass the test of logical scrutiny to the degree that nationality is imagined, as Anderson is wont to argue. More importantly, we demonstrated that Miller's conceptualization of national affinity is simplistic. The truth remains that globalization has complicated the character of national attachment such that, while national attachments are fragmenting within states, in another breath, the social bonds that transcend the borders of the state are being forged.

We also examined Walzer's relativistic and quite sophisticated arguments which he raised in objection to cosmopolitan justice. He was of the view that, given the fact of cultural diversity, it is virtually impossible to develop an account of justice which will be persuasive across cultures. In response to Walzer, we have argued that cultural diversity does not necessarily rule out the development of a trans-cultural account of justice. We showed that principles of global justice already inform some of the norms presently regulating global relations, for instance, the Kyoto agreement.

Finally, we examined Rawls' argument which sought to reduce the issues of global justice to a mere duty of assistance to burdened societies. As we have demonstrated, the duty of assistance and that of justice are quite separate duties; thus, they are not coterminous with each other. We also highlighted the argument of Buchannan and Tan who provided powerful reasons why the principles of distributive justice ought to be incorporated into the law of peoples.

Having critically examined and countered the volley objections that have been leveled against global justice by the anti-cosmopolitan, we insisted that the idea of global of cosmopolitan justice continues to hold an attraction for those who are interested in the institutionalization of a more just global economic order. But some skeptics are of the view that cosmopolitan justice is highly demanding, in that existing theories of cosmopolitan justice tend to sanction the redistribution of resources from the affluent to the poor nations.

Chapter Four, which might be regarded as the thesis chapter, developed a minimalist account of justice, one that emphasized rectification rather than redistribution. To arrive at our minimalist account of cosmopolitan, or global justice that will command acceptance across philosophical schools, religions and cultures, the chapter took, at its starting point, the twin principles of "non-harm" and "rectification" – two principles that are relatively uncontroversial moral imperatives. To demonstrate the universal endorsement of the non-harm principle, the chapter provides evidence that religion, as disparate as Buddhism, Christianity and Confucianism, affirms the non-harm principle, just as philosophers from the ancient to the contemporary era. The chapter also argued that the principle of rectification is a long-standing principle of morality in philosophical reasoning, and, thus, examined Aristotle's and Robert Nozick's treatment of the principle of justice. From a combination of the notion of harm and rectification, we developed a minimalist account of cosmopolitan justice which required that, given the rise of transnational harm in the age of globalization, our obligation of justice cannot any more be confined to the territorially-bounded nation-states, as the communitarians and nationalists are wont to argue. If justice demands the rectification of domestic harms, by the same logic, it also commands the rectification of transnational harms.

In the fifth and final chapter, we provided an elaborate justification for the minimalist account of cosmopolitan justice, developed in the preceding chapter. We demonstrated the usefulness of this new account of justice to a concrete, real life problem by applying it to the problem of global climate change. In the first part of the justification, the chapter highlighted the advantages that our account of cosmopolitan justice has over rival accounts. Following Rawls' assertion that "justification proceeds from what all parties to the discussion hold in common," we reiterate the fact that the our negative obligation not to harm others wrongfully enjoys such a universal endorsement that it approaches what Rawls described as an overlapping consensus in the sense that in context of global ethical pluralism, the non-harm principle is supported across cultures. The second part of the justification raised and examined potential objections to our theory of justice and refuted these objections by providing the required defence.

The final section of the chapter applied the minimalist account of cosmopolitan justice to the well-known problem of global warming, focusing specifically on the question, "What is the fair allocation of cost for preventing further global warming?" Here, we examined the various schemes for the just allocation of this responsibility, such as the *Carbon Intensity Approach, the Per-Capita Emission Principle* and the *Historical Responsibility Approach* ("polluter pays" principle). We concluded that in the light of common but differentiated culpabilities, in the damage of global climate, the minimalist account of cosmopolitanism naturally endorses the "polluter pays" principle.

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