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From International to Global Justice?

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Abstract and Keywords

This article examines the concepts of international and global justice. It explains that the former implicates on the relations of states or nations while the latter focuses on justice for humanity taken as a whole. The article explores the traditional agenda of international versus global justice and evaluates the impact of globalization and the hyper-power position achieved by the U.S. on the conception of justice in the international scene.

Keywords: international justice, global justice, states, nations, humanity, globalization, U.S.

The meaning of “justice” is, of course, always highly contentious, but, on this occasion, perhaps not as problematic as the choice of adjective to qualify the term. Should it be “international” justice, or “global” justice? The former implies that what we are interested in is the relations of states or nations, the kind of entities that make up the membership of the United Nations; justice in this case points us towards the normative principles that underlie such relations, as encapsulated in, or summarized by, the practices of international society, most particularly the discourse of international law. Global justice, on the other hand, does not privilege the nation state in this way; here, the referent object of justice is humanity taken as a whole, all the people who share our planet, and it is by no means to be taken for granted that their interests are best served by the normative principles that underlie interstate relations. The *procedural* account of justice that is represented by traditional conceptions of international law comes up against notions of global *social* justice. But things are not that simple, because, independent of notions of global social justice, the traditional conception of international relations is under challenge, both by the growth in significance of global social and economic forces and by the position of the United States which has achieved, [\(p. 622\)](#) or had thrust upon it, a degree of hegemony unprecedented in the last 400 years. Between

them, globalization and American hyper-power (which may be different aspects of the same phenomena) are reshaping the international agenda, and notions of international/global justice will not escape this process. The first two parts of this chapter will explore the traditional agenda of international versus global justice, while the third will focus on these new features of the international scene.

1 International Justice, Properly So-called

What does it mean for states to deal justly one with another? “Nothing,” opines one influential body of international relations theory—so-called realism. States act in accordance with their interests defined in terms of power, and there is little more to be said about the matter; international law never acts as a genuine constraint on state behavior. As a modern realist puts it, in a self-help system “logics of consequences,” that is, ends-means calculations, always trump “logics of appropriateness,” including international norms and laws (Krasner 1999). It is easy to see why this position is superficially convincing. Wars and lower-level conflict are perennial and seemingly ineradicable features of international relations, international treaties are unenforceable because there is no effective international court system or police force and thus states routinely act as judges in their own cause—all this is, indeed, a recipe for anarchy and a norm-less world. But this is to see the glass as half empty; what is actually more striking about international relations, given the absence of government, is the extent to which violence and conflict are *not* prevalent. Most nations most of the time are at peace with one another, and, within the advanced industrial world at least, we take for granted that goods, services, and individuals can cross national boundaries without too much difficulty, and that a complex network of international institutions will engage in standard-setting and regulation for a whole range of activities—these institutions have been created by states but nonetheless do constrain their behavior, even if compliance does not reach the level that a well-run national bureaucracy would regard as acceptable. Interstate (p. 623) conflicts are legion, but the vast majority are settled without even the threat of violence. A good question is how this comparatively peaceful and well-organized world is possible in the absence of international government. Why does anarchy not mean chaos?

One very influential answer is to say that although international relations are anarchical, states nonetheless consider themselves bound by various norms and practices; that, in short, there exists an anarchical *society* (Bull 1977/1995). The central institutions of this society are permanent diplomatic missions and international law; the former provides a means for states to negotiate their disputes without resort to force, while the latter provides a set of normative principles and procedures that underlie the activities of

diplomats. These institutions are unique to the European order that was established sometime in the sixteenth and seventeenth centuries (the so-called “Westphalia system”) which has since, through imperialism and decolonization, become genuinely global. The core principles of Westphalian international law are the sovereign equality of states and the norms of non-aggression and non-intervention. Law is intended both to buttress and to constrain state sovereignty; on this account, law is not necessarily incompatible with war, which is the prerogative of states, but which ought to be conducted in accordance with commonly agreed rules, and, in principle, does not involve civil society, although the emergence of nationalism as a force in international relations, and the destructive capacity of industrial society, have made this constraint more difficult to achieve.

International justice in this Westphalian order rests on an ethic of co-existence and is therefore procedural and not devoted to any substantive ends, except those connected with facilitating coexistence. Drawing on the work of the English political philosopher Michael Oakeshott, Terry Nardin has argued persuasively that the society of states is analogous to an association of citizens (*cives*) as opposed to an “enterprise association;” that is, an association devoted to the pursuit of some substantive common goal (Nardin 1983). It is central to Oakeshott's conservatism that the state itself should not be an enterprise association, but it is interesting that John Rawls, whose theory of justice as applied to national societies is the polar opposite of Oakeshottian, also endorses the general idea that, as between societies, notions of social or distributive justice are inappropriate—the pluralism that international society is designed to foster is not necessarily to be associated with either conservative or progressive ideologies (Rawls 1999). There is, incidentally, an important general point here: normative thinking about (p. 624) international relations rarely maps neatly onto domestic distinctions between right and left which were developed in another context altogether (Brown 2002a).

It can certainly be argued that this account of international justice over-estimates, even romanticizes, the degree of order in the Westphalian system, but in any event, there are several reasons for skepticism as to its adequacy in the twenty-first century. First, the old European order was just that, European. It supported pluralism in Europe but was frequently intolerant of “difference” when it encountered it in the rest of the world. Moreover, European diplomacy may itself be a culturally specific social activity; it can certainly be argued that the old order worked as well as it did because diplomats were drawn from the same social class, spoke a common language (metaphorically and actually), and, for the most part, represented sovereigns who were linked by ties of family and religion. It may be that in a non-European world order the state form itself—a European export widely welcomed by governing elites in the rest of the world—will impose its own culture and provide its own support for a legal system based on coexistence, but this is unlikely to be as reliable as the older cultural framework.

Second, the rise of industrial society has created the need for state cooperation across national boundaries in a way that the predominantly agrarian societies of old regime Europe never did, and this has had an impact on the distinction between the practical and enterprise associations alluded to above. On this latter account, states are obliged to sign up to the practices of coexistence, but further cooperation is optional, at their discretion—but is it really true that states have the option nowadays to opt out of the international economy and the network of institutions that support it? Possibly, but the costs of exercising this option are too high for most. Third, another feature of industrial society has been democratization, which has played a part in undermining the old diplomatic culture, but has also led to ideas such as universal human rights, which threaten to undermine the ethic of coexistence upon which conventional international justice is based.

The post-Second World War settlement is instructive in this regard. On the one hand, the United Nations actually strengthened the norm of sovereignty and national independence, making the protection of norms of non-aggression and non-intervention available (in principle, if not in practice) to all states; on the other hand, the Universal Declaration of Human Rights of 1948, and the subsequent development of an international human rights regime has severely restricted (again in principle, if not in practice) the way states are (p. 625) supposed to behave towards their own people. There is an obvious contradiction here—moreover, as the human rights regime has developed, economic and social rights have come to the fore, with even greater implications for national sovereignty than the political and civil rights upon which the Universal Declaration concentrated. Taken together, these three factors have led many writers to think that conventional notions of international justice are radically inadequate and that what is required are principles of global or social justice.

2 Global Social Justice

Procedural justice involves impartial rules impartially applied, but, as many writers have argued, impartiality is difficult to achieve between rich and poor, and theorists of social justice argue that for a society to be just, outcomes as well as procedures must be rationally defensible—justice is a matter of substance as well as procedure. It is easy to see how this argument could be extended internationally; it may be the case, for example, that a norm under which foreign-owned assets may not be nationalized without compensation is technically impartial between British assets in Bangladesh and Bangladeshi assets in Britain, but in substance this proposition resembles the famous observation that the Ritz, like the law, is open to rich and poor alike. On the other hand, it is certainly possible to argue that, between different societies, the sort of

considerations that apply within any given society are simply not relevant; scholars of international society including the most important theorist of social justice of the last century, John Rawls, take this line, arguing that distributive justice between societies is not possible because there is nothing to distribute. Rawls argues that the society of states (he says “peoples”) is not a scheme of cooperation for mutual advantage and so there is no social product whose distribution is a proper matter for social choice—although he does argue that existing members of the society of peoples should be obliged to help “burdened societies” to achieve membership status (Rawls 1999; Brown 2002*b*). It is fair to say that most theorists of justice, including many who think of themselves as, in other respects, Rawlsians, find this (p. 626) position wrong, indeed perverse. Characteristically, they deploy, individually or in combination, three arguments for the notion of global social justice.

The first argument, associated in particular with Charles Beitz's seminal account of *Political Theory and International Relations*, is that, under contemporary conditions of interdependence, national societies are not sufficiently discrete to justify their being treated as separate, self-contained entities (Beitz 1979/2000). Rather, the world has to be seen as, in certain respects, a single society and therefore the Rawlsian idea that differences in outcome vis-à-vis the distribution of social and economic goods must be justified applies. Beitz argues that Rawls's “difference principle” to the effect that such inequalities must work to the benefit of the least advantaged should be applied internationally which would, of course, require wholesale redistributions of wealth and income between different national societies. Apart from the obvious practical problems associated with such a position, there is a further difficulty which Beitz later acknowledged, namely that a Rawlsian society is, as noted above, to be understood as a cooperative scheme based on mutual advantage, and it is by no means clear that the current world economic order could be seen in this light (Beitz 1983). Straightforwardly Rawlsian principles of social justice may apply in areas where Rawls thought they did not—for example, it might be argued, as Beitz does, that the principle that states own the raw materials found on their territory is indefensible since they have done nothing to deserve this wealth and thus resource-poor countries should be compensated by the equivalent of a global wealth tax—but a full-blown global difference principle seems to be taking the argument a step too far.

Unless, perhaps, existing international economic inequalities are actually created by, rather than reflected in, the international economic order, in which case the second argument in favor of global social justice kicks in—namely that rich countries are responsible for the poverty of poor countries and it is therefore right that they should acknowledge extensive obligations to the latter. This is a position that is associated with some post-Leninist theories of imperialism, in particular dependency theory and centre-

periphery analysis as developed in Latin America in the 1960s (Frank 1971; Galtung 1971; Wallerstein 1974/1980/1989). This position is post-Leninist because Marxist theorists up to and including Lenin argued that the role of capitalism was to develop the non-capitalist world as a way of (temporarily) staving off the inevitable crisis of accumulation in the core capitalist countries, rather than to hold down the non-capitalist world in perpetual poverty (Warren 1980; Brewer 1990). Dependency theory is no longer widely supported in the (p. 627) academy—although for political reasons it remains popular in those parts of the South where development has not taken place and where local elites wish to deflect the anger of the people away from themselves—but the general argument has been taken up with great rhetorical force recently by Thomas Pogge, whose *World Poverty and Human Rights* is a seminal work (Pogge 2002). Pogge argues that environmental degradation, mass poverty, malnutrition, and starvation are the price paid by the poor to support the lifestyle of all the inhabitants of the advanced industrial world; global redistribution via a tax on the use of natural resources is a requirement of global social justice. This is a powerful argument, although is not simply neoliberal apologists for the International Monetary Fund (IMF) and World Trade Organization (WTO) who would wish to argue that the neo-mercantilism upon which Pogge's work is misplaced is ill-judged. Old-style liberals and unreconstructed Marxists can agree that genuinely free trade—that is, an end to industrial and agricultural protection in the advanced industrial world—would do more to help the poor than Pogge's global welfarism (Desai 2002; Bhagwati 2004).

Both of the first two arguments rest on questionable empirical propositions about how the world actually is; arguably the interdependence argument overstates the unity of global society while the dependency argument understates it. A third argument for global social justice is less dependent on facts about the world, resting on a priori moral principles which envisage all individuals as deserving of equal respect independent of national boundaries. The Kantian principle that a wrong done anywhere is felt everywhere comes into this category, as does his formulation of the categorical imperative which in turn forms the basis for Beitz's (1983) account of cosmopolitanism, and Onora O'Neill's account of our obligations to distant strangers (Kant 1970; Beitz 1983; O'Neill 1986, 1991). Peter Singer's utilitarian account of the obligations of the rich to the poor is, of course, different in form from the Kantian position, but leads to the same general result, as does Brian Barry's espousal of the principle that the basic needs of all should be met before the non-basic needs of anyone are satisfied, a cosmopolitan principle that he derives from the idea of justice as impartiality (Singer 1985; Barry 1994, 1998). As it happens, most of these writers also endorse a version of Pogge's empirical account of the world economy, but their arguments do not rely upon it—from the perspective of this third set of approaches to global justice, the very existence of

extremes of wealth and poverty in itself creates obligations on the rich to help the poor, regardless of the reasons why such extremes emerged.

(p. 628) What, however, this general approach leaves open, is the extent of such obligations, and whether they are necessarily best met by wholesale state-intervention to redistribute resources. As to the first of these points, most writers agree we have different and more extensive obligations towards those closest to us, family, friends, and, by extension, fellow-citizens, than we have towards distant strangers; the key question is how different and how much more extensive. Rawls's proposition in *The Law of Peoples* is that our obligations extend only to helping societies that are not capable of sustaining internal schemes of social justice to reach the point at which they would be so capable (Rawls 1999). This would, as he acknowledges, leave many global inequalities in place, but it is not self-evident that impartiality or Kantian/utilitarian principles actually require that we promote global equality. As to the means by which assistance is given, Rawls argues that the transfer of actual wealth is not necessary to put burdened societies on the road to social justice—what such societies require is the right kind of civil society and sociopolitical values, and the promotion of these values does not require that wealth be transferred, or income redistributed. This may understate the importance of grinding poverty in keeping societies burdened, but Rawls is on firmer ground when he argues that, in fact, it is very difficult to transfer wealth from rich to poor countries—all the evidence of the last forty years suggests that designing effective programs of development aid is well near impossible, which is why economists such as Bhagwati and Desai put so much emphasis on free trade and access for developing countries to developed-world markets (Cassen 1994).

The arguments presented so far have revolved around the obligations of the rich to the poor, and in these terms, defenders of a traditional conception of international justice are somewhat on the defensive in the face of the claims of global justice—although part of the purpose of this discussion has been to suggest that, even in these terms, the former have better arguments than they are often credited with. Still, the strongest case in favor of international as opposed to global justice rests on a political defense of pluralism, and the merits of communal autonomy. Although many critics of communal autonomy (including all those cited above) consider themselves on the left politically, it is worth stressing that those societies where functioning and effective social democratic polities have existed have usually been strong defenders of the idea of national sovereignty—the Scandinavian social democracies being the obvious example. Writers such as Michael Walzer and David Miller would argue that there is a clear affinity between social democracy and moderate nationalism (Walzer 1983; Miller 1995; Miller and Walzer 1995). On the one hand, it is (p. 629) argued, social democracy and a strong welfare state requires a degree of commitment to one's fellow citizens, expressed via high taxes, that is difficult to achieve

except on the basis of a national community, while, on the other hand, the kind of benefits that an effective welfare state will provide must rest on distinguishing between those entitled to such benefits and those not so entitled, that is, on the control of national borders. It is striking that the Scandinavian social democracies, although good, law-abiding, international citizens with an excellent record of support for the UN and in the giving of development aid, have been very reluctant to surrender power to supranational institutions within Europe, and have always enforced strict immigration controls.

In short, the pluralism that international justice defends has a positive as well as a negative side. It provides the benefits of coexistence to both progressive and reactionary social systems, those that deny many of the basic human rights, but also those that provide the most effective expression of such rights. It is clear that the replacement of this pluralism by cosmopolitan principles of global justice would bring costs as well as benefits for those who favor progressive causes. Still, it may be that this pluralism is doomed by the forces of globalization along, indeed, with those principles of global social justice which employ the building blocks of national communities, which is the case with, at least, the Kantian version of cosmopolitanism. It is noteworthy that preserving national welfare states is increasingly difficult in the face of the pressures of global forces, while, equally, schemes for international redistribution which rely on the existence and relevance of discrete national economies are under threat. Moreover, all this is taking place in a world where the Westphalian assumption that power would be divided amongst a plurality of national actors no longer holds true. It may be that the debates examined so far in this chapter are becoming overtaken by events.

3 Globalization and American Power

At the beginning of this discussion the realist proposition that international justice is a meaningless notion was put to one side in favor of the idea that there exists a norm-governed international society. But how is an anarchical (p. 630) society possible? The classic answer to this question is, “the balance of power.” Because no one sovereign state is in a position to dominate all the others, they each have an interest in supporting a set of norms and practices that regulate their relations (although each also has an interest in preserving as much freedom of action as possible); such international order as exists rests upon this somewhat insecure foundation. The contemporary power of the United States, military and economic, unprecedented in the Westphalia system, puts this foundation under question (Wohlforth 1999). It is important not to overstate this point. Other powers have briefly been dominant in the Westphalian system (including the USA itself immediately after the Second World War) and the USA is not in a position to be able to carry out a program of global conquest on the model of Napoleonic France; moreover,

it cannot enforce its will on the international community in general, although it may be able to get its way on particular issues and with particular countries. Still, the old notion that when the great powers wish to act collectively they need to form a “concert” no longer seems relevant (Brown 2004). The USA is now capable of pursuing a great many projects without reference to any other state, and, more to the point, other states find it difficult to pursue their projects unless the USA is on board, as the Kyoto Treaty on the environment and the International Criminal Court (ICC) illustrate. The Kyoto Treaty has come into force, and the ICC exists, but in both cases the future of these initiatives remains doubtful in the absence of US support.

Further, the rise to dominance of the USA has been accompanied by, indeed may be another aspect of, the process of globalization. The latter is a deeply contested term, and some authors argue persuasively that “internationalization” of the world economy is a more appropriate term than globalization, but, whether or not one wishes to argue that a qualitative change has taken place, it seems difficult to deny that there has been a kind of transformation of both global society and the global economy in recent years (Held et al. 1999; Hirst and Thompson 1999; Scholte 2000). This is partly a matter of an increasingly integrated global economy, with global brands and global firms, but also involves the emergence of a global society, with identities and social structures shaped increasingly by global forces. Also part of globalization is the emergence of resistance movements: fundamentalisms of all varieties, national groups such as the Chiapas in Mexico, and the uneasy coalition of environmentalists, trade unions, farmers, and socialists who make up the anti-global-capitalism movement that has been so effective in disrupting meetings on the WTO and other bodies in recent years—all of (p. 631) these movements can be seen as stimulated and made possible by globalization. Is globalization the same as Americanization? Many of the economic and social forces that drive globalization emerge from the USA, but it should also be noted that American society itself is placed under pressure by these forces: insofar as “real” jobs are being replaced by “McJobs” and local, regional variations are increasing being ironed out, this process has gone farther in the USA than elsewhere.

What both American power and globalization, taken together and singly, suggest is that the contradictions in the old Westphalian system that has been there since 1945 have now sharpened to near breaking-point. In the twenty-first century, Westphalian states are unable to cope with the problems thrown up by environmental degradation or the management of the global economy, and unable to protect their populations from the consequences of this inability—indeed, following the prevalent neoliberal orthodoxy, most of them have given up the attempt to perform this latter task (Strange 1999). This quite obviously constitutes a challenge to the contemporary significance of ideas of *international* justice. The most important defense of the notion of an international society

is that it promotes a healthy pluralism, allowing national communities to define and pursue their own projects. The difficulties that the social democracies are experiencing in preserving their welfare states in the face of global pressures to cut taxes, reduce costs, and improve competitiveness suggests that this defense of communal autonomy is increasingly becoming difficult to sustain—it is doubtful whether even the USA is actually capable of pursuing its own national projects at home or in the world, but certainly the next largest industrial countries are finding this difficult, and for most countries nowadays autonomy is barely a meaningful notion.

Many cosmopolitan theorists of *global* justice would regard this development as no bad thing. As we have seen, a quarter-century ago, Charles Beitz argued against the notion that an international society based on discrete sovereign states existed, positing that global interdependence had created a world in which neither realism nor a “morality of states” could be defended. His resistance to Rawls's position was largely based on the belief that communal autonomy is an illusion under modern conditions, a position also held by most other theorists of global social justice. From one angle, globalization can simply be seen as the continuation of this process, a development in global society which makes the necessity for the establishment of principles of global justice even more imperative. Indeed, many theorists of global social justice have given support to the anti-global-capitalism movement while at (p. 632) the same time making it clear that this did not involve their opposition to globalization as such.

Still, even if globalization is easier to take for theorists of global justice than it is for adherents to the older Westphalian account of international justice, it nonetheless requires some quite substantial adjustments to the former mode of thought. Although for Beitz, Pogge, O'Neill, and other cosmopolitan theorists the ultimate reference point for their thinking was the demand for justice made on behalf of individuals, still a great deal of their thinking assumed that collective actors would remain relevant. Both Pogge and Beitz were clear that they were “moral” as opposed to “institutional” cosmopolitans—that is to say they relied on changes of policy in national units in response to the demands of global justice rather than the development of effective global institutions of governance. (Beitz 1994; Pogge 1994). Given current conditions, in practice this means changes in US government or European Union policy become a prime objective, since only the USA and the EU are actually capable of delivering on schemes of global social justice; this is not an encouraging situation, since the more powerful Americans are currently unimpressed by the idea of multilateral action in any area, let alone in pursuit of goals most Americans do not share, while the rather more multilateralist EU operates by satisfying the interests of its comparatively wealthy member states rather than those of the poor of the world.

In any event, old-style cosmopolitanism had a clear spatial dimension—it was about the obligations of people who lived *here* to people who lived *there*, whereas nowadays it is

arguable that within the emerging global society this spatial dimension is much less easy to pin down. Civilizations are interpenetrated, the “South” is now in the suburbs of Paris and Los Angeles as well as those of Rio or Calcutta, borders are increasingly difficult to police, and attempts to establish zones of safety and privilege, whether via the North American Free Trade Area or the Schengen Agreement in Europe, look increasingly doomed. Only the kind of global institutions envisaged by David Held and his colleagues look likely to be able to cope with this new situation—and Held's faith that these institutions will be democratic seems highly implausible (Archibugi, Held, and Kohler 1998).

Of course, as this last paragraph (deliberately) illustrates, it is very easy to get carried away by the vision of an ultra-globalized, borderless world. The sort of meltdown of national societies that such an apocalyptic vision portrays is unlikely to happen in the foreseeable future; instead, national societies will try to cope with the new problems as best they can, occasionally creating (p. 633) innovatory institutions, but more usually adopting the sort of “make do and mend” approaches that are characteristic of all politics. But this does not mean that the challenges of globalization to both conceptions of justice, international and global, are not real. Rather, it suggests that we currently live in a kind of “interregnum” (Cox, Booth, and Dunne 1999). Just as, in 1945, a set of human rights norms which were laid over the sovereignty norms of the old Westphalian system in a way that clearly created, without resolving, a great deal of international cognitive dissonance, so now both sets of norms are being challenged by the emergence of a genuinely global society. Moreover, this new global society is not accompanied by any sense of a genuine global community—it is striking that such while new institutions of normative global governance as the International Criminal Court have strong support in Europe and the Americas (apart from the USA), they have no appeal in Asia or the Muslim world; no significant Asian or Muslim state has signed, let alone ratified, the Rome Statute which led to the creation of the ICC. A similar division is visible when it comes to the putative new norm of “humanitarian intervention,” whose supporters are almost exclusively drawn from the rich and privileged sections of the world. In short, for the time being, the conventional agendas on international and global justice will continue to dominate the discourse, in spite of being fairly obviously unsatisfactory, in the same way that the national state continues to dominate global politics, even though it is not too difficult to demonstrate that it is an outmoded institution that no longer serves the cause of either communal autonomy or human freedom.

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