

Nations and Global Justice

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要旨：国境と境界

本論は、グローバル正義論が古典的な社会的正義論と三つの基本的前提を共有していることを論じる。第一の前提は、個人の道徳的な重要性である。第二の前提は、共通の制度的な戦略である。第三の前提は、政治と社会的正義との関係についての共通の理念である。それらの理論が適用されるそれぞれのコンテキストは異なっている。社会的正義論の場合は閉じた社会であり、グローバル正義論の場合は独立国家の多元性によって特徴付けられた国際的な状況である。この根本的なコンテキストの違いを考えれば、この共通の三つの前提、特に最後の前提は、グローバルなコンテキストにおける正義の問題を正しく理解するための主要な妨げとなっている。

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Global and social justice

Proponents of global justice, for example, Thomas Pogge, Kok-Chor Tan, Charles Beitz, Gillian Brock, or Henry Shue, argue in favor of a strictly liberal foundation for global justice.¹⁾ According to them, global justice consists in equal justice for every one independently of who he or she is, without any consideration of race, gender, ethnic origin or *of where he or she happens to have been born*. Just as liberals consider that skin color or gender should not have any incidence on peoples' claim to equal justice, global liberals argue that the place of birth, for example, Sierra Leone rather than Japan, is arbitrary from a moral point of view, and therefore that it should not enter into account when we try to determine a person's rights or entitlements. Yet, arbitrary as this difference may be, in the world in which we live, the nation one belongs to clearly has far reaching consequences on a person's opportunities, welfare or rights. It is this difference between the equal rights which, from a moral and normative point of view, all individuals share and the real inequalities that exist at the global international level that motivates proponents of global justice.

From the liberal individualistic point of view, nationality – where one happens to have been born – is a morally irrelevant accident. However, according to all these liberal authors, national states and relations between them constitute the fundamental means of realizing global justice, of

implementing a really universal justice; at least if one does not wish to establish a world state, something which to my knowledge no proponent of global justice advocates. Global justice according to them, does not only have to take into account the national, or rather the international, level, that is to say, the level where sovereign and independent collective decision centers interact, but can only be realized through national institutions.²⁾ More precisely, the particular mechanisms that are envisioned to bring about global justice, for example taxes on resources or insurance schemes, can only be put into operation with the help and agreement of national governments. They can only work to the extent that national institutions are mobilized to realize these global objectives. Apart from the conceptual tension between the moral irrelevance and practical necessity of nations that it suggests, such a strategy faces two difficulties. The first, and most evident, concerns the political will of rich nations to establish such redistributive schemes. The second is simply that many countries especially would be recipients of this aid do not have the necessary economic, political or institutional infrastructure to absorb the large sums of money that would be transferred to them.³⁾

Of course, these schemes that aim at implementing global justice entail a transformation of relations among nations and they require setting up multinational or international institutions that will permit a fairer global distribution of wealth and resources. In consequence, these institutions will change our understanding of what nations are, as well as of their rights and privileges. However, they do not entail the disappearance of nations and nation states, to the contrary as we have just seen. In fact, strangely enough, in many theories of global justice, national differences that at first are described as “morally arbitrary”, receive later on a moral justification, either as a means of realizing global justice, or through the idea that there is a “moral privilege” of co-nationals, that is to say, the idea that we have towards co-nationals duties that do not extend to individuals from other countries.⁴⁾ In fact some recent theories are at pain to show that the requirements of global justice are not incompatible with some form of nationalism.

Broadly understood then, global justice is social (economic or redistributive) justice at the global or world level. In fact, theories of global or cosmopolitan justice do not present any important departure from classical liberal theories of social justice. They share with those theories of justice three basic theoretical presuppositions. The first is the moral priority of individuals. The second is the institutional strategy, and the third is a particular understanding of, and relation to, politics.

The Moral Priority of Individuals

The moral priority of individuals means that only individuals are taken to have rights and moral value. They are, as Thomas Pogge says “the ultimate units of concern” (p. 169)⁵⁾. Individuals and only individuals import and they all import equally, independently of any “morally arbitrary accident”, like race, place of birth, gender, physical ability, or the language a person

speaks. In global theories of justice, just as in liberal theories of social justice, it is taken for granted that individuals alone morally count and that they all count equally. The main difference is that in classical theories of social justice, the theory is conceived as applying within the confine one nation or state. Nonetheless theories of social justice assume that the requirements of justice are “in principle” universal and that they extend to everyone, independently of the nation or state where one happens to live or to have been born. Thus, for most authors theories of social justice are as universal as theories of global or cosmopolitan justice. The main difference between the two approaches concerns their proponents’ attitude towards the present division of the world into independent states. Theories of social justice consider that it is (morally?) sufficient to address the question of justice at the level of each individual state. Moral responsibility begins at one’s doorstep and if everyone did the same justice would be universally realized. To the opposite, proponents of global justice argue that such an approach is clearly insufficient. According to them, comparison between states reveals differences in wealth and power which indicate that morally arbitrary accidents, like the place of birth, or the natural distribution of (natural) resources, trump individuals’ right to equal opportunity and entail inequalities that demand to be corrected. Further, given that equality and equal opportunity are central requirements of social justice, they argue that cosmopolitan justice is actually implicit in liberal theories of justice, and that the move to global justice only aims at realizing the ideals of justice that are already contained in classical theories of social justice. ⁶⁾

If, for example, Rawls’s original position was to be open to everyone, rather than understood as applying to citizens of one state only, individuals under a veil of ignorance concerning where they were born would, it is argued, choose principles of justice that 1) take into account the inequality between rich and poor countries and 2) foster at the international level institutional arrangements that compensate gross inequality between nations. ⁷⁾ Thus, the main differences between social theories of justice and theories of global justice is the extent to which they assume that modern nation states taken individually, constitute adequate tools to realize justice and need to be complemented by international institutions. However, as argued earlier, these theories do not in consequence question the importance or legitimacy of individual states, but, to the opposite, rest to a large extent on national institutions the hope for global justice.

Rawls own position however is different from what this extension of the original position to the international level suggests. According to him, “justice as fairness is not intended as the application of a universal moral conception”. To the contrary, it is, he argues, indebted to a particular tradition of moral and political philosophy. It also depends on the particularities of Western political history as it was shaped by the Wars of Religion and the development of the principle of toleration. In consequence, Rawls thinks it unlikely that it can be applied universally. ⁸⁾

The institutional strategy

The second basic theoretical assumption shared by theories of social and of global justice may be called the “institutional strategy”. Even if, according to such theories, individuals, and individuals only, have moral import, justice is to be realized through institutional arrangements. More precisely, the goal of theories of justice is to devise fair institutional arrangements. Social justice, either at the national or at the global level, cannot be realized by focusing on particular persons or situations. Rather, determining which situations are just (or unjust) requires comparing basic social structures. To the opposite, penal, or criminal justice, that does not only consider individuals as morally relevant, but also includes within its purview moral persons, for example, corporations or associations, deals with specific situations and transgressions. Individuals and institutions understood as moral persons, rather than institutional arrangements and representative persons constitute its proper objects. Even though criminal justice is necessarily realized through specific institutions, like courts of law, it reaches, so to speak, below the level of institutions, to particular persons and actions. Political justice again is different in this regard. Its essential targets are not individuals, but groups. It aims at setting up a just political order and deals with the claims of particular groups as they were determined by specific historical situations.⁹⁾

In contradistinction, theories of social and global justice aim at establishing fair institutional arrangements. Their proper target is the social structure taken as a whole. For example, in Rawls justice requires a social structure which guarantees to all first, equal rights and the most extensive system of freedom compatible with similar freedom for others, then equal opportunity, and where finally inequalities are to the advantage of those who are most disadvantaged. An author like Thomas Pogge argues that, *mutatis mutandis* the same should hold at the global level. Therefore the present world order that cannot guarantee equal opportunity to all independently of where they live and in which clearly, inequalities do not in any way benefit those who are less advantaged is most undoubtedly unjust. This institutional strategy does not simply entail that the solution will come through a new modified institutional arrangement at the world level, but also that justice is not a characteristic of actions or of agents, but of institutional arrangements and of social states. This is the second presupposition that both theories of social justice and theories of global justice share.

Justice and politics

The third basic theoretical assumption that is common to theories of social and of global justice is a particular understanding of the relationship between social (or global) justice and politics. An indication of this particular view can be found in John Rawls's *Theory of Justice*, even if, as mentioned earlier, Rawls's conception of the relation between social justice and politics is actually more complex than what this suggests. In that book Rawls seems to consider that

agreement on the first principle of justice – which deals with what are usually described as *political rights* rather than as *social rights* – is relatively straightforward. At least he spends much less time (and pages) discussing the first principle of justice, than the second principle which deals with social justice. This first principle, Rawls thinks, corresponds to institutional arrangements that are relatively well accepted in modern constitutional democracies. According to him, the real challenge arises when it comes to choosing the two parts of the second principle of justice.

Most proponents of either social or global justice however surmise much more concerning the adequacy of existing political arrangements and theories. They take for granted the truth of political liberalism and often consider that no other political option is possible, or consistent with the requirements of justice.¹⁰⁾ What is characteristic of this relation to politics is that it assumes that the political question is resolved and that it can be resolved independently of social justice. For theories of social justice, and of global justice, politics is just not an issue anymore or, rather, the only political issues that remain are those that concern social justice, i.e. redistribution. This attitude fosters the illusion that (at least in principle if not in fact) the political question has been satisfactorily solved once and for all. At the practical level this theoretical assumption corresponds to taking for granted modern Western liberal nation state and its particular institutions. That is to say theories of social justice not only take for granted that they apply in situations where modern nations states with functional institutions exists, but they also take for granted that normatively these institutions are satisfactory, at least to the extent that they assume that the political can and has been dealt with independently from the question of social justice.

This presupposition usually remains invisible and plays within theories of justice a role that is never analyzed, let alone criticized. To my knowledge, only Rawls has explicitly defined his conception of justice as political.¹¹⁾ And, it is precisely because Rawls takes into account the political dimension of his theory of justice that, unlike many who claim to be his followers, he is not a proponent of global justice.

Justice in a world of independent sovereign states

Global theories of justice recognize that the present distribution of wealth and power among nations has for individuals major consequences on issues of social justice and equal opportunity. Therefore they propose to establish international institutions that will compensate or correct the injustices that result from the present state of affairs. However, like theories of social justice they assume that the political question has in a sense been fundamentally settled. That is they assume that the question of global justice can be addressed without taking into account any political issue as such. In consequence they also assume that the political question has been settled in a particular way. Social theories of justice take for granted the existence of a modern nation state, without noticing the importance of this supposition in relation to the policies concerning justice which they recommend, and, of course, without analyzing its precise role within the theory. In the case of

global justice the same lack of awareness applies, yet the situation is different in that here there is no institution that corresponds to the basic theoretical assumption according to which the political question has been satisfactorily solved. In other words, what can, to some extent, be assumed to be, to some extent, the case in the closed context of an isolated nation state, or of a liberal democracy, does not, in any way apply at the global level.

Surprisingly, the international disorder and injustice that theories of global justice complain of do not incite them to question their prejudice in favor of nation states. As if this disorder was only that, disorder, rather than a necessary feature of a particular type of international organization: one that rests on a plurality of independent nation states. Theories of global justice consider it evident that inequality between nations is only an accident, rather than a necessary feature of the organization of the world in a community of nation states. They take it for granted that injustice at the international level can be remedied without raising major political questions. They assume a certain division of labor between politics and social justice. One however that probably can only make sense within the isolated context of an individual nation state.

An extreme, and as we will see revealing example of the separation between social justice and political questions can be found in *Justice without Borders* by Kok-Chor Tan. In that book, Tan, following Yael Tamir, argues that one of the advantages of an international tax that redistributes wealth from rich to poor countries is that it would allow rich countries to maintain strict border control in order to protect their cultural homogeneity and democratic institutions.¹²⁾ In circumstances, where wealth and resources would be more equally distributed, he argues, keeping closed borders would not deprive individuals from other countries of equal opportunity or access to equivalent benefits. In other words, he assumes that countries have a right to exclude from entering their territory (at least) those who have not been born there, but that this right can be curtailed if this exclusion excessively penalizes those individuals in comparison with co-nationals. Actually, Yael Tamir had already framed the problem in that way:

Restricting immigration in order to retain the national character of a certain territory is only justified if all nations have an equal chance of establishing a national entity, in which its members will be given a fair chance of pursuing their personal and collective goals. The right to preserve cultural homogeneity is therefore contingent on the welfare of other nations. Liberal nationalism thus implies that it is justified for a nation to seek homogeneity by restricting immigration only if it has fulfilled its global obligation to ensure equality among all nations.¹³⁾

Apart from the fact that these two arguments tend to assimilate all immigrants to refugees, one may wonder if restricting immigration is justified in any case, and if freedom of movement does not constitute a basic right that cannot be overridden by the desire to preserve cultural or national homogeneity, especially for those who consider that individuals and only individuals morally count.

Suppose, for example, that the standard of living, educational and employment opportunities, health services, life expectancy, etc. between Shiga and Kyoto prefectures are approximately equivalent, does it follow that, in order to preserve the “cultural particularity of Kyoto”, we could be justified from preventing individuals from moving freely from one prefecture to the other? One may say, of course, but that case is different since both Shiga and Kyoto are prefectures in the same country, Japan. But how and why is this morally different?

It is clear from what has just been said that both Tan and Tamir take for granted that the “morally arbitrary” difference, where one happens to have been born, is not morally arbitrary in every context. In certain contexts, according to them, it can thwart a person’s right to freedom of movement. The problem is not that theorists of global justice do not see, or do not take into account such differences rather it is that they do not question them and assume that questions of global justice can be resolved without having to address such issues. In consequence, the international institutions which, according to them, are necessary to implement global justice would leave the overall structure of the international community pretty much as it is.¹⁴⁾

Borders and universality

Advocates of cosmopolitan justice argue that there is no reason why universality should stop at the border of the nation state where the philosopher/theorist happens to live. If a theory of justice is universal, then we cannot justify excluding from its scope, and depriving of justice, those who happen to have been born elsewhere, those who think differently than us or share a different tradition of moral and political thought. That is to say, of course, there is no *moral reason* to do this, but, as nationalist have long argued there may very well be political reasons. However, according to theorists of global justice, these political reasons are not morally relevant. The political exclusion of foreigners from the scope of our obligations is morally unjustified. Yet, liberal nationalist, as we have just seen, argue that such political reason can have moral import that at times trumps, or at least qualifies the claim to moral universality.

Parties in this discussion, liberal nationalists and cosmopolitans, share at least one fundamental presupposition about the relationship between nation state and universality. According to both of them, within the liberal nation state equal opportunities, benefit and advantages should be extended to all. Cosmopolitans are surprised that this “all” ends at the borders of the nation state. Nationalist, to the contrary, are aware that historically “all” in this context, has never meant everybody. For example, it was not so long ago that “all” included only those who owned landed property, or who could pay a certain amount of taxes, later it came to include all adult males, but even then, “all” still excluded women, or those who were of a different race or ethnic group, or who lived in the colonies. Universality in the context of the nation state has always been limited. It has always been confined at best to all citizens and a central political question has ever been to determine who is and who is not a citizen?

It may of course be argued that the development of modern constitutional democracies went hand in hand with the inclusion of more and more people into the category of citizens. This, in a sense, is true. Landless peasants, laborers, women, members of minority groups, criminals and handicapped persons were progressively accepted as full citizens. The ideal of global justice, one may add, simply extends further this process of inclusion, pushing it beyond the limit of the nation state. However, a different history of nation states has also been written, one which is not of inclusion, but of exclusion, or rather, of inclusion and exclusion. The universality of rights and benefits has always been understood to exclude some, and the process of inclusion has always had a counterpart of exclusion. In consequence, what appears within a certain domain, and as long as we remain focused on that domain, as the growth of inclusion, is inseparable from exclusion, from establishing borders that delimit that domain.

The historical process of growing inclusion went together with a displacement of exclusion. While new categories of individuals were included, for example co-nationals who do not own property, other categories of individuals who are subjects without being citizens were created, for example in the colonies, or in metropolitan territories as guest or foreign workers. Throughout their history nation states have also practiced exclusion in much more violent ways, through the forced displacement of populations. For example, it has been estimated that after the Second World War more than 15 millions people were displaced in Europe alone. That is to say, they were driven away from their land and forced to settle in a different country. This immense operation of ethnic cleansing was done (and accepted as a “necessary evil”) by the winners, the Allies, countries, many of which were constitutional democracies. It may be argued of course, that these were extraordinary times, and they were. However these forced displacements took place after the war, once the hostilities were over, and they were considered as a precondition for establishing a normal international situation, one where a community of nation states could function peacefully.¹⁵⁾

The close relationship between modern nation states and forced population homogeneity has been well documented by historians and political theorists.¹⁶⁾ The birth of many nation states, for example India and Pakistan, Israel, Greece and Turkey to name but a few relatively recent ones, led to the forced homogenization of people and massive population expulsion.¹⁷⁾ Today most historians take for granted the strong historical relationship between the rise of nation states and forced population homogenization and displacement. In view of this history, borders perhaps, are not simply morally irrelevant accidents that our theories of social, and of global, justice tend to take a little too seriously. To the opposite, they are a necessary feature of nation states, their goal is to exclude, and it is only within the space from which others have been excluded that, so far, we have ever been able, and only very imperfectly, to institutionalize freedom, equality and social justice.

The limited or “regional” universality of modern nation states and of constitutional democracies is not accidental. To the opposite, it is an essential characteristic of that type of political organization. Universality stops at the borders of the state. Theories of global justice deny that the regionalism of theories of social justice has any real moral or conceptual foundation.

However, in spite of the fact that they recognize that the division of the world in different nations is morally accidental, they not only view that division as inevitable in practice, in the sense that correctives applied to the world system to make it more just must necessarily rest on national institutions, they also argue that nations are in some sense necessary and morally justified. This “contradiction” I have argued, comes from the fact that theories of global justice have unwittingly taken from theories of social justice a political assumption whose importance they fail to realize: that question of social justice and political issues can be dealt with independently and do not profoundly interact with each other.

However if, as Rabindranath Tagore argued, a little less than one hundred year ago, nations require “no nations”, colonies, protectorate, traditional polities, countries that have a different political status from nation states and are excluded from their club and can be exploited, pillaged and colonized, then political issues and global justice cannot be kept separate.¹⁸⁾ If political and economic inequality is an essential aspect of a system of nation states theories of global justice cannot avoid questioning not only the present distribution of wealth and resources but also the very organization of the international community.

Notes

- 1) Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2004); Kok-Chor Tan *Justice Without Borders: Cosmopolitanism, Nationalism and Patriotism* (Cambridge University Press, 2004); Charles Beitz *Political Theory and International Relations* (Princeton University Press, 1979); Gillian Brock *Global Justice A Cosmopolitan Approach* (Oxford University Press, 2009); Henry Shue *Basic Rights Subsistence, Affluence and US Foreign Policy* (Princeton University Press, 1996).
- 2) To my knowledge only Onora O’Neil “Global Justice: whose obligation?” in *The Ethics of Assistance Morality and the Distant Needy* (Deen K. Chatterjee, ed) (Cambridge University Press, 2004) p. 242-259 challenges this common presupposition.
- 3) On this issue see Dambisa Moyo *Dead Aid why aid is not working and how there is another way for Africa* (London: Allen Lane, 2009).
- 4) Two noteworthy exceptions to this trend are Henry Shue *Basic Rights Subsistence, Affluence and U.S. Foreign Policy* (Princeton University Press, 1996), especially pp. 131 -152 and Gillian Brock *Global Justice A Cosmopolitan Account* (Oxford University Press, 2009) see especially chapter 10, for criticism of the idea that there is a moral priority of compatriots.
- 5) Thomas Pogge *World Poverty and Human Rights* (Cambridge: Polity Press, 2002).
- 6) See for example Thomas Pogge *Realizing Rawls* (Ithaca: Cornell University Press, 1989) and more recently Gillian Brock *Global Justice a Cosmopolitan Account*, (Oxford University Press, 2009).
- 7) See Gillian Brock *Global Justice* for an application of the Rawlsian original position at the global level.
- 8) John Rawls “Justice as Fairness: Political not Metaphysical” in *Collected Paper John Rawls* (S. Freeman, ed.) (Harvard University Press, 1999) p. 390.
- 9) This is why, I argue in « Redistribution and Recognition » in *Ritsumeikan Studies in Language and Culture*, 19.4: 117-127 (2008) that theories of multicultural justice are best understood as theories of political justice, rather than as theories of social justice.
- 10) For example Ronald Dworkin *Sovereign Virtue The Theory and Practice of Equality* (Harvard University

- Press, 2000), for a criticism of the view of liberalism as the only political theory compatible with justice, and of Dworkin in particular, see Daniel Bell *Beyond Liberal Democracy Political Thinking for an East Asian Context* (Princeton University Press, 2006).
- 11) John Rawls "Justice as Fairness: Political not Metaphysical" in *Collected Papers*, S. Freeman ed. (Harvard University Press, 1999), pp. 388-414. Note that the contrast is with "metaphysical" rather than with "social".
 - 12) Kok-Chor Tan *Justice Without Borders* (Cambridge University Press, 2004), pp. 123-131.
 - 13) Yael Tamir *Liberal Nationalism* (Princeton University Press, 1992) p. 161.
 - 14) On this issue see also the essays collected in Gillian Brock & Harry Brighouse, eds. *The Political Philosophy of Cosmopolitanism* (Cambridge University Press, 2005).
 - 15) See Alfred-Maurice de Zayas *A Terrible Revenge The Ethnic Cleansing of East European Germans* (New York: Palgrave Macmillan, 2006) and Pertti Aho, Gustavo Corni, Jerzy Kochanowski, Rainor Schulze, Tamas Stark & Barbara Stelzi-Marx *People on the Move forced population movements in Europe in the Second World War and its aftermath* (Oxford: Berg, 2008).
 - 16) See for example Heather Rae *State Identities and the homogenisation of people* (Cambridge University Press, 2004).
 - 17) Illan Pappé *The Ethnic Cleansing of Palestine* (Oxford: Oneworld Publications, 2006); Gyanendra Pandey *Remembering Partition: Violence, Nationalism and History in India* (Cambridge University Press, 2001) on Greece and Turkey see Heather Rae *State Identities*, op. cit.
 - 18) Rabindranath Tagore *Nationalism* (New Delhi : Rupa & Co, 1992).