

Cosmopolitanism and Global Institutional Design

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Abstract

The question of global justice is urgent, considering current global inequalities and deprivation. However, there is a widespread claim that duties of justice have no global application, because justice only occurs with certain institutional requirements that are not fulfilled on a global scale. In this thesis I argue for a cosmopolitan approach to global justice, and propose criteria for a just global political structure. I begin by presenting four main approaches to justice on a global scale - cosmopolitanism, realism, the “society of states”, and nationalism. I contrast cosmopolitanism, the view defended in this thesis, with the political approach, which makes the claim that justice only occurs within a state. I then argue for the need for global political institutions, both on an intrinsic and instrumental level: they are needed because they provide with fairer procedures, and because they are more likely to produce outcomes that face collective action problems. I present different institutional concerns for global political institutions, balancing claims on both goals and procedures. I briefly illustrate the philosophical conceptions presented in the thesis with three current international institutions, the UN, the WTO and the ICC, remarking on which conception they adhere to and which they violate. In the last chapter, I make a proposal for global political institutions, which is to divide sovereignty vertically. This follows the concerns presented in previous chapters, to achieve the moral cosmopolitan goals of global justice.

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Introduction

The country one is born in is completely arbitrary. We can even safely claim that many of the borders of current countries are arbitrary. However, the country one is born in has a significant impact on the standard of living one can expect to have. There are great global inequalities, in health, wealth, and security. This entails that in some regions and some countries, a great number of people do not have access to basic necessities, such as proper nutrition, clean water, or basic health facilities. From a humanitarian perspective, there are many people who are in an alarming situation. What must be done so that this is no longer the case?

Global justice raises many questions: first of all, does it exist? When something occurs in a land and a population far away from one's own, is it a matter of one's concern? Can one make claims on whether it is just or not? Do we have concern beyond basic humanitarian standards for others globally?

For the many who believe that justice only occurs within an institutional setting, the consequence is that the country one is born in determines the claims one can make for justice. Is justice dependent on borders? I reject this claim, and will argue for a theory of global justice that does not limit one's claims to the country one is in.

The purpose of this thesis is to defend a cosmopolitan view of justice, that is to establish global duties of distributive justice. It will present and argue for principles of global justice, as well as how these could be put in practice through institutions. The purpose is to present a broad view of different conceptions of justice with a global scope, some indications of proper procedures and outcomes for global political institutions, as well as some illustration of these philosophical concepts by applying them to current institutions. This thesis aims to question the current global institutional structure, from a substantive as well as

a practical perspective, and instead make cosmopolitan suggestions for desired procedures and outcomes.

I will begin by presenting cosmopolitanism, a particular vision of justice on a global scale, and the one that this thesis aims to defend and develop. I will also present three alternative views to justice that can extend globally: realism, the “society of states”, and nationalism.

In the second chapter, I will expand on the moral role of borders. There is a strong argument that justice, in particular distributive justice, only occurs within the realm of a state, because of particular characteristics that states possess, and that no other political entity currently has. According to this argument, exemplified by Thomas Nagel, global justice simply does not exist, because justice does not apply on a global scale. I will compare the cosmopolitan and statist arguments and their assumptions.

The third chapter will focus on political institutions. I will present the concept of state sovereignty, and then elaborate on different institutional considerations that would further cosmopolitan justice.

The fourth chapter will present a few illustrations of the normative and empirical claims made in the previous three chapters. It will present three of the main current global institutions: the United Nations, the World Trade Organisation, and the International Criminal Court, and see how they can be assessed with the principle previously discussed.

The fifth and final chapter will make proposals for global institutional design. It will then compare these proposals to the principle of state sovereignty. I will also present some statist counter-arguments, but conclude that they are not convincing in proving that there is no need for global political institutions.

Chapter 1: Overview of the terrain: different conceptions of justice on a global scale

In his 2005 book *Justice Beyond Borders*, Simon Caney pursues a very similar goal to this thesis. He provides his reflections on the question: “what principles, if any, should govern the global realm?” (Caney, 2005, p.1). He begins by presenting cosmopolitanism, as well as three other competing approaches to political theory on a global scale.

I. Cosmopolitanism

The first conception is cosmopolitanism, the one adopted in this thesis, and by Caney as well. Cosmopolitanism has three basic assumptions. The first is individualism, which means that the ultimate units of moral concern are individual human beings, rather than groups such as families or nations. The second is universality, which means this status of ultimate unit of concern applies to every human being equally, with no regards to any kind of group that person is part of. The third is generality, which means that the scale of concern is global, that every person is an ultimate unit of moral concern for everyone else (Pogge, 1992, p.48). Cosmopolitanism is thus a perspective of justice that is concerned with the equality of all persons on a global level. Global justice, for cosmopolitanism, concerns equality of all individuals, regardless of which state, or any group, they are part of.

A few distinctions and precisions should be made about cosmopolitanism. Although all cosmopolitans accept these three basic claims, they express them through various moral and political theories. One example is utilitarianism, where the utility of all beings is considered equally throughout the globe (this is the approach taken by Peter Singer). Another example is a rights-based approach, in which cosmopolitanism is expressed in the rights of all persons in the world to be protected (this is the approach taken by Henry Shue) (Caney 2005 p.5).

Cosmopolitanism can further be divided in legal and moral cosmopolitanism (Pogge, 1992, p.49). Legal cosmopolitanism, which is also sometimes called institutional cosmopolitanism, is concerned with having a global order in which all persons have equal legal rights and duties. Moral cosmopolitanism is concerned with respecting each individual as a unit of moral concern, which imposes limits upon people's conduct and on construction of institutional schemes (Pogge, 1992, p. 49). Moral cosmopolitanism is more abstract, but also less restrictive. Indeed, moral cosmopolitanism does not require legal cosmopolitanism: every individual worldwide can have the same moral worth without needing a global state, it is compatible with other political structures. For the rest of this thesis, cosmopolitanism will refer to moral cosmopolitanism, as that is what fulfills the three basic assumptions presented above. As noted by Caney (2005, p.5), some cosmopolitans also adhere to legal cosmopolitanism, but it is not necessary.

Caney makes a few further distinctions regarding cosmopolitanism, by concern of clarity. He separates it from liberalism, the concern of people's equal liberty. Although they often go together, it is conceptually plausible to be a non-liberal cosmopolitan, and a non-cosmopolitan liberal (Caney, 2005, pp.5-6). A second distinction is between cosmopolitanism as a moral position (that adopted here), and cosmopolitanism as a particular view of the good life, which Caney names "cultural cosmopolitanism". Although cultural cosmopolitanism also has political implications, it is not the concern of the approach developed here, and must also be set aside (Caney, 2005, p.6). A final point about cosmopolitanism, that is especially important for the later part of this thesis, is that as an approach based on three moral assumptions, it is not dependent on empirical claims for its validity. Cosmopolitanism exists as a theory in political philosophy regardless of explanatory theories of the state of global affairs (Caney, 2005, pp.6-7).

II. Realism

One important competing conception of justice on a global scale is realism. Realism can be divided in two central claims, an ethical and an empirical one, that are closely related but distinct. The ethical claim is that “states should pursue their national interest”, and the empirical claim is that “political actors (most notably, states) tend to pursue their own interest” (Caney, 2005, p.7). The ethical claim is used to establish what is permissible and what is not in global affairs. It is incompatible with the cosmopolitan view, which holds that the only interest that should be pursued is that of individuals worldwide. Although the empirical claim is often used to justify the ethical one, it is distinct from it, and is compatible with cosmopolitanism. Further, although the empirical claim can be disproved, this need not have an impact on the ethical claim. Morality has an ambiguous role in realism. Some realists claim that “morality has no place in international affairs”, whereas others claim that there is such a thing as morality in international affairs, and it consists in pursuing the national interest (Caney, 2005, p.8).

The empirical claims of realists, that states pursue their own interest, are explained in different ways. Waltz, in his book *Man, the State and War* (1959) classifies them in three types: “First image theories explain international phenomena by reference to human nature. Second image theories explain international phenomena by reference to domestic factors: states’ internal structure affects international affairs. Third image theories explain international phenomena by reference to the structure of the international system” (Caney, 2005, p.9). Although many realists adopt the first image approach, Caney considers it insufficient, with the argument that this does not explain “why humans can be moral in domestic politics but cannot be moral in another realm such as international politics” (Caney 2005, p.9).

Although the third image theory does not have this problem, I do not find it to have considerable explanatory power. As related by Caney, Waltz adopts this explanation, with the argument that “states behave the way they do because they are driven to do so by the international structure” (Caney 2005, p.9). However, what this fails to address is what drives the international structure. In particular when, as it is the case in the realist approach, the principle actors in the international scene are states pursuing their own interests, it seems implied that the international structure is the consequence of the self-interested behaviour of states. The argument is circular: states are driven by the international structure, but the international structure is itself driven by states. As the unit of moral concern is states, and all states (are assumed to) act in a self-interested way, there appears to be no other source for the international structure. A further elaboration of the origin of the structure of the international system is important, because this in turn determines whether it can be evaluated as just or unjust, whether it can be modified, and how.

III. “Society of States”

A second competing conception to justice on a global level is what Caney calls the “society of states” approach. He describes it as: “a just global order is one in which there are states and the states accept that they have moral duties to other states” (Caney, 2005, p.10). This approach has elements similar to both the cosmopolitan and the realist approaches, and can be further described in comparison to them. In contrast to the cosmopolitan approach, the unit of moral concern is the state, not the individual. The “society of states” approach gives importance to maintaining the sovereignty of states, in particular with the commitment to non-intervention, something that cosmopolitanism does not require. Cosmopolitans are primarily concerned with the equality of persons, whereas adherents to the “society of states” are primarily concerned with the equality of states (Caney, 2005, p. 12).

This approach is more demanding than realism, in that states have moral duties not only towards their members, but also towards each other. Unlike the realist approach, in the “society of states” view, there is an international order, which “should be constituted in the form of an association in which states feel a sense of belonging to other states and accept some common rules of the game” (Caney, 2005, p.12).

There is a spectrum within the adherents to this approach, depending on how much importance is given to the two important components: the state as the unit of moral concern, and the common rules that unite them. Solidarists give emphasis to the commonality and shared goals among states, whereas pluralists give emphasis to the state as an independent entity whose sovereignty must be preserved (Caney, 2005, p.12).

This approach is based on both empirical and ethical claims. The claim that states should treat other states with respect is an ethical one. The claim that there is an international order is empirical, and is another point of divergence between this approach and the realist one. For the realist approach, the only international order is that of states acting in their self-interest, whereas in the “society of states” one, the international order is based on binding moral norms (Caney, 2005, p.13).

IV. Nationalism

The third competing conception of justice on a global level is nationalism. Nationalists claim that “our membership of a nation affects our obligations and, in particular, it generates special obligations to fellow nationals”, and that “national self-determination is defensible” (Caney, 2005, p.13). By giving more importance to the obligations toward fellow nationals, nationalism distinguishes itself from cosmopolitanism, in particular the assumption of generality, which gives the same importance to all people worldwide. Further, nationalism is distinct from realism and the “society of states” because it promotes the nation rather than

the state. Although the definition of a nation is not uncontroversial, Caney presents and rejects two conceptions in favour of a third one. A nation is neither a state, nor a group of people with a common ethnic identity. The definition adopted by Caney is that a nation is a group of people who share a common culture (Caney, 2005, pp.14-15).

This definition of the nation is important in further distinguishing nationalism from the two other statist conceptions (realism and the “society of states”): “nationalists and statist both distinguish between the ‘global’ realm and the ‘domestic’ realm. However, they necessarily draw the line between the domestic and the global in a different way” (Caney, 2005, p.15).

Although Caney claims that nationalism is “not an amoral realm” (Caney, 2005, p.14), it is not clear which moral principles should govern the global realm, apart from the principles of special relations towards fellow nationals, and the principle of national self-determination.

This first part has thus provided an overview of four main approaches to justice on a global level. The next step in defending cosmopolitanism is examining the question of whether global justice is a concern in the first place, and for this we must develop the relationship between justice and institutions.

Chapter 2: Cosmopolitanism versus the importance of state boundaries

When discussing global justice, one must inevitably answer the question: what is the role of institutions? Do institutions simply carry out duties of justice, or do they create them? In other words, are institutions constitutive for duties of justice? There is much discussion on this issue, whether justice on an international level exists before institutions (the cosmopolitan view), or whether it only arises from institutions and the special relations within them (the political view). As cosmopolitanism was developed in the previous section, it does not need to be defined again, so I will begin with the definition of the political conception.

1. The political conception

The political conception is that “justice should be understood as a specifically political value, rather than being derived from a comprehensive moral system, so that it is essentially a virtue-the first virtue- of social institutions” (Nagel, 2005, p.119). The political conception of justice claims that duties of justice arise only within a state, because the members of a state are in a special relation with each other that they do not share with the rest of humanity. In this conception, justice is associative. An important paper that develops this distinction and this particular conception of justice is Thomas Nagel’s paper “The Problem of Global Justice” (2005). In it he claims that “given that [the state] exercises sovereign power over its citizens and in their name, those citizens have a duty of justice toward one another through the legal, social, and economic institutions that sovereign power makes possible” (Nagel, 2005, p.121). These duties of justice only occur between citizens, and only because of the institutions they are part of. These institutions, in turn, are only possible because of the sovereign, centralised power of the state. Thus, the line of causality is: the state has sovereign

power, which makes institutions possible, which creates duties of justice for its members. The members are also engaged because the power is exercised “in their name”, which means that they are not only coerced by the institutions, but active participants in them. Two important elements in this conception are the question of *coercion*, present in the sovereign power of the state, and the question of *representation*, present in the idea that the state is a representative of its members.

In the cosmopolitan conception, the formation of the state answers a universal demand for equality. In the political conception, requirements of equality are conditional on being in a strong and coercively imposed political community. If only taking into account those considerations, and no other duties, then it appears that if someone is not in a functional political community (for example, a non-recognised state, or somewhere with a poorly functioning government), then they do not have duties of socio-economic justice, and no one has them towards them. This is an unappealing situation, leaving some people much more vulnerable than others.

Nagel admits to the arbitrariness of the political conception, saying that “what is interesting and somewhat surprising about this condition is that such membership is itself arbitrary, so an arbitrary distinction is responsible for the scope of the presumption against arbitrariness” (Nagel, 2005, p.128). Nagel defends this arbitrary distinction by claiming that beyond becoming a member of society, which people have no control over, the grounds are participation in the general will of society, of being both a subject and “one of those in whose name its authority is exercised” (Nagel, 2005, p.128). Even though original membership is arbitrary, the effects of it create egalitarian concerns among its members that cannot be extended to people outside the state. Rawls views the sovereign state as a cooperative enterprise for mutual advantage, which Nagel rejects, in favour of a view that the basic structure is coercively imposed, and not a voluntary association. However, once a person is

part of this association, the coercive rules are imposed in their name, which is crucial for the assignment of duties and responsibilities. The critical properties of the state are that it is an *involuntary* association in which rules are coercively imposed.

In discussing the relationship between justice and sovereignty, Nagel bases himself on Hobbes, who argued that actual justice cannot be achieved except within a sovereign state, and the government is an enabling condition for justice. In a similar perspective, Rawls developed his *Theory of Justice* as only applying to the basic structure of a nation-state. The link between justice and sovereignty is the idea that the coordinated conduct of a large group of people can only be achieved with law backed up by a monopoly of force (Nagel, 2005, p.115). This is based on the assumption that a just order requires enough people to conform. Cohen and Sabel, in a critique of Nagel's article, support this point by emphasising the role of coercion for cooperation: "the state, with its coercive powers, is necessary to sustain a willingness to cooperate by assuring cooperators that their willingness to do their part will not be exploited by others" (Cohen & Sabel, 2006, p.160).

Nagel describes briefly the current state of global institutional relations, mostly focusing on the global economy, which show that "we are clearly in some kind of institutional relation - legal and economic - with people the world over" (Nagel, 2005, p.137). According to the political conception, this then triggers requirements of distributive justice. Nagel rejects this conclusion, saying that the current institutions creating global relations do not possess all the characteristics of nation-states that are required to generate claims of distributive justice. Cohen and Sabel (2006) dissect this argument, and show that it presents many problems. They describe the state of the world according to the criteria set forth by Nagel in determining why states are the only acceptable locus for justice. Although they admit that the world is not in a state of current global government, they reject that its characteristics are not strong enough to trigger claims beyond the humanitarian baseline.

II. The question of the state being “in their name”

The two notions of coercion and representativeness are interlinked and cannot be considered completely separately, but I will nonetheless focus on the second one. One of the main points in Nagel’s argument for the political conception is that coercive state rules are done “in the name” of the citizens. Caney observes the importance of “in their name”: “Nagel repeatedly invokes this phrase to help ground his claim that principles of distributive justice apply only within the state” (Caney, 2008, p.513).

1. Is this a valid criteria?

Before examining the consequences of “in their name”, I will consider whether or not it is the case that a state acts “in the name” of its citizens. Two approaches will be considered: normative (it occurs because it is assumed to) and empirical (it occurs only in the state, as proven by empirical evidence).

The normative approach is that representativeness occurs, as an inherent property of the state. An illustration of this position is made by Cohen and Sabel (2006). They provide a helpful explanation of why acting “in the name” of citizens gives states this special status as the locus for justice, which centers on coercion. However an important qualifier is that these regulations are made “in the name of all”. The collective is engaged in that it would be *impermissible* to make these rules in the name of all unless every person was given equal consideration in making the regulation (Cohen & Sabel, 2006, p.160). The ‘in the name of all’ is valid because it is assumed to occur: it cannot be said that it is ‘in the name of all’ unless it is really ‘in the name of all’.

The empirical approach is that representativeness is a characteristic only occurring in states, which can be proven empirically, and thus justifies the state as the locus of justice. An

illustration of this position is made by Nagel (2005). He argues that current international agreements do not trigger duties of global distributive justice because “they are not collectively enacted and coercively imposed in the name of all the individuals whose lives they affect; and they do not ask for the kind of authorization by individuals that carries with it a responsibility to treat all those individuals in some sense equally” (Nagel, 2005, p.138). What is doubtful is whether any current institutions fulfil these criteria, and in particular whether states manage to fulfil this definition. The more fundamental question however is whether these are claims that can be proved empirically. Can one present solid, uncontroversial empirical evidence that a state asks authorization from its citizens? This leads to the question: how can “acting in the name” of citizens be operationalised? It is easy for a state to claim that it is doing something in the name of its citizens, however this does not seem to be sufficient to justify its coercion. Before taking a stance on whether states possess these qualifications or not, it must first be decided whether one can make an empirical claim on it or not. These questions fall under the realm of the discipline of political science, and I conjecture that the answer will be “no”. However the questions still remain open, in the case that they can.

In the other case, that there is no possible way to empirically prove that the state is considering equally the will of all its citizens, the political view loses some strength. It would lead back to making an assumption rather than an empirical claim. The state is assumed to possess the qualities that make it the only legitimate locus for distributive justice. To this extent, the argument is on the same level as cosmopolitan assumptions, normative arguments with no empirical support. This does not indicate that one side is more convincing than the other, but rather clarifies that this debate occurs on a normative level, and will remain so until it can be proven convincingly that there are valid empirical factors that can support such claims.

2. The burden of reform

I will now turn to the question of what “in their name” signifies for states and its citizens. In particular, it helps us answer the question: what grounds our duty to bring out institutional reform? Claims from the cosmopolitan and political conceptions of justice are very similar regarding the consequences of “in their name”. I will attempt to elucidate the parallels and points of difference between the two.

Pogge, a cosmopolitan, has a very similar idea to Nagel, however it leads to different consequences. He claims that “the responsibility of persons is [...] a shared responsibility for the justice of any practices one supports: one ought not to participate in an unjust institutional scheme (one that violates human rights) without making reasonable efforts to aid its victims and to promote institutional reform” (Pogge, 1992, p.50): as members of an organisation, we are responsible for what it does. This position is the institutional conception of cosmopolitanism, in which cosmopolitan principles apply to institutional schemes. The responsibility of fulfilling them falls to these institutions, and thus imposes constraints on shared practices of all those involved in the institutional scheme. All those who are part of the institution cooperate in the institution, and are thus responsible for the duties it fulfils or fails to fulfil. The force of this argument is that the duties do not arise from positive duties of assistance, which are more controversial, but from negative duties not to participate in harm.

Although Nagel and Pogge appear to describe similar relationships between individuals and the institutions they are part of, the consequences for justice are very different. For Nagel, justice applies within institutions, so only to the individuals who share that institution. Outside the state, the relations that trigger socio-economic justice do not occur, so questions of duties of justice outside the state are irrelevant. For Pogge, there are

duties of justice outside of institutions, so the individuals who are part of institutions are also responsible for how these institutions fulfil these external duties of justice.

However, the way Pogge ascribes responsibility to individuals is with very broad terms. What exactly does “ought not to participate” mean? It could mean that citizens should defect if the institutions they are part of are unjust. Pushing that, it could even mean that they have the right to reject rules if they believe them to be unjust. Another interpretation would be focusing on the second part of his statement. People have duties to aid victims and promote institutional reform, if the institutions they are part of create harm. It means that citizens bear a large amount of responsibility over the institutions they are part of: if those institutions are unjust, it is their responsibility to change them. This is probably Pogge’s position, who begins his paper by stating that while some believe that the existing global institutional framework is “natural or God-given”, it is “in fact imposed by human beings who are collectively quite capable of changing it” (Pogge, 1992, p.53), and indeed, have a duty to.

Another broad term is “participate”. It is unclear whether participation is voluntary or involuntary, and the degree to which participation is required in order to count. In particular, the difference between voluntary and involuntary membership is crucial for Nagel is his attribution of duties of socio-economic justice. This distinction appears irrelevant for Pogge, which makes him come off as a consequentialist. It doesn’t matter how one came to be part of an institution, what matters is that one is part of it. This is possibly one of the core points of disagreement between Nagel and Pogge, explaining the difference in outcome for global socio-economic justice.

The second point regarding participation is its degree: it could apply to those who are actively engaged in making the rules (politicians, law-makers), those who follow the rules (law-abiding citizens), or those who are under the jurisdiction, whether or not they follow it

(all citizens). Further, participation could be conscious or unconscious, that is, whether or not the citizens are aware of the rules and their consequences. Indeed, the institution one is part of (for example, the region, state, and the international organisations and agreements the state is part of) has innumerable consequences, such that it is impossible for a single member to be aware of all of them. It then seems very demanding, perhaps too demanding, to hold them responsible for all of them. Pogge could argue that they have the responsibility to be informed of these consequences, or perhaps that the only consequences that matter are the large-scale ones (such as unfair trading rules).

Understanding the distinction between the two is what gives grounding to who has responsibility for institutional change, or for ensuring justice within the institutional system. If the citizen, as in Pogge, is ultimately responsible for the justice of institutions, then the citizen bears responsibility for institutional change. If the institution is ultimately responsible, then it is for the institution to ensure that it is acting justly, and respecting the will of its citizens.

III. Do the interactions between states matter?

Another interesting aspect that differentiates the political from the cosmopolitan view is the interactions to which justice applies. In the political conception, the interaction between states is irrelevant to duties of justice, as those interactions do not have the same characteristics as those that trigger the duties of justice within a state. However, for the cosmopolitan view, these interactions are relevant.

For the political view, the interactions between states are only irrelevant to the extent that they do not possess the characteristics needed to create demands of justice. This is thus based on empirical arguments: those ascribing to the political view make the empirical claim that the interactions between current nation states are not sufficient to create duties of

distributive justice. This means that it is a position that is liable to change, under the condition that interactions change and it can be proven that interactions between states attain characteristics that make them triggering for duties of justice.

For the cosmopolitan view, this question is not so crucial, as duties of justice exist regardless of whether the interactions are judged important enough or not. The interactions are only important to the extent that they give more precision to what is concretely demanded of institutions and their members. The description of these interactions will establish to what extent global duties of justice are violated or not, and the extent to which members of these institutions are required to act to amend these. They set which are the concrete goals that must be addressed by institutions and by their members.

For the political view, this question is crucial for determining whether there are duties of global justice in the first place. While empirical facts qualify the duties of justice in the cosmopolitan view, they are determinant in saying whether they exist or not in the political view. This shows the importance of empirical descriptions of the state of the world. They are important in both cases, and thus there is value in studying them regardless of which conception one follows. An empirical analysis of the state of the world is critical, as it blurs the distinction between the cosmopolitan and the political view. Even though the premises are different for the two, empirical findings can establish the same outcomes for both: duties of justice on a world scale, in the interactions between the people and the institutions they are part of.

In the next chapter, I will address the concept of state sovereignty and what cosmopolitanism requires for the global political structure.

Chapter 3: Cosmopolitan considerations for global institutional design

Chapter 1 presented different conceptions of justice that have global scope, and expanded on the characteristics of cosmopolitanism. Chapter 2 developed the relevance of state borders in establishing duties of justice, and found that overall the argument was not stronger for the political view than for the cosmopolitan view. The present chapter will explore what cosmopolitanism requires from an institutional perspective.

One of the central concepts on which the current global institutional scheme is based is that of “state sovereignty”. The reasoning behind dissecting this concept is that we must “not mistake what exists now for an essential feature of the world” (Caney, 2005, p.149). This echoes Pogge, who describes the existing global institutional framework as “imposed by human beings who are collectively quite capable of changing it”, and not “natural or God-given” (Pogge, 1992, p.53).

1. Defining state sovereignty

State sovereignty can be defined as “supreme authority within a territory” (Philpott, 1999, p.570). Caney dissects this in four different properties:

1. Legality: sovereignty is a juridical concept. It doesn’t have to do with the actual capacity to coerce, but rather the authority to. In addition, it is not about economic or political power, it is something *normative*, rather than based on *empirical* grounds (Caney, 2005, p. 149).

2. Supremacy: the state has supreme authority. This sovereignty has universal scope: there is no final and absolute political authority in the political community anywhere else. It is both ‘internal’, in that there is “no person or institution within the state which has higher

authority”, and external in that there is “no person or institution outside the state which has higher authority” (Caney, 2005, p. 149-150).

3. Territoriality: sovereignty applies to a group of people who are territorially defined. Caney explains that “those to be governed by a state are those who reside in a certain territory” (Caney, 2005, p.150).

4. Comprehensiveness: sovereignty entails authority over all issues, not only some. Another term for this is “absoluteness”, as used by Philpott (Caney, 2005, p.150).

This amounts to Caney’s suggested definition: “a global system of sovereign states as one in which all political authority takes this form”, meaning has those 4 properties (Caney, 2005, p.150).

This is important because “we should not treat the predominantly statist character of the world system for the last three centuries as a fixed feature of the way the world is” (Caney, 2005, p.151). In particular, identifying these features allows us to consider what occurs when they are relaxed, in turn or simultaneously, which provides us with alternatives to the statist system.

Pogge gives a slightly different definition that Caney of state sovereignty, which however contains very similar elements:

“A is *sovereign* over B if and only if:

1. A is a governmental body or officer ("agency"), and
2. B are persons, and
3. A has unsupervised and irrevocable authority over B
 - a) to lay down rules constraining their conduct, or
 - b) to judge their compliance with rules, or
 - c) to enforce rules against them through preemption, prevention, or punishments, or
 - d) to act in their behalf vis-a-vis other agencies (ones that do or do not have authority over them) or persons (ones whom A is sovereign over, or not).

A has *absolute sovereignty* over B if and only if

1. A is sovereign over B, and

2. no other agency has any authority over A or over B which is not supervised and revocable by A.”

(Pogge, 1992, p. 57)

The definition of absolute sovereignty contains the elements “supremacy” and “comprehensiveness”, which suggests that what Caney refers to as state sovereignty is equivalent to what Pogge refers to as absolute sovereignty. “Unsupervised and irrevocable” in Pogge’s definition is equivalent to “supremacy” in Caney’s definition.

The two definitions, although arguably leading to the same result, take different perspectives on state sovereignty. Pogge dissects the property of “legality” into the ability to lay down rules, judge compliance with those rules, or enforce those rules, or in other words, the three ordinarily separated powers of legislative, judicial and executive. As there is an option on which ability the agency possesses, it suggests that what is important is the “unsupervised and irrevocable” character of the authority. The fourth property set forward by Pogge is representativeness: a sovereign institution has the authority to act on behalf of their members, to act in their name, which is one of the essential characteristics triggering justice on the state level only. This is a property that is not present in Caney’s definition of state sovereignty.

Pogge does not refer at all to the property of “territoriality”, which is one of the main properties in Caney’s definition. This may be because Pogge defines sovereignty in a general manner, whereas Caney defines sovereignty in the context of the state.

II. Considerations in establishing the institutional arrangement for cosmopolitanism

Like Caney, I follow in this thesis a moral cosmopolitan perspective. Moral cosmopolitanism does not necessarily lead to institutional cosmopolitanism, or a world

government. Rather, I will explore different considerations for the best institutional arrangement for moral cosmopolitanism.

Although Caney divides the cosmopolitan literature in three approaches, I think it is more helpful to group the first two, and thus divide it in two main approaches: an intrinsic and an instrumental one. The intrinsic approach is focused on procedures, and the instrumental one on outcomes. For the intrinsic approach, moral cosmopolitanism is further interpreted as entailing the right of self-government. This leads to two different institutional consequences. A first approach emphasises self-determination: “appropriate political structures are those that people themselves choose” (Caney, 2005, p.152). A second approach emphasises the all-affected principles: “appropriate political institutions are those that allow people to govern the forces that structure what they can do in life” (Caney, 2005, p.152). The instrumental approach states that “appropriate political institutions are those that best further cosmopolitan moral ideals” (Caney, 2005, p.152). This approach, in contrast to the previous one, is consequentialist. I will now expand further on these approaches.

1. The intrinsic approach

1.a. Self-determination

The intrinsic approach focusing on self-determination can be either individualist or collectivist (Caney, 2005, p. 153). The individualist perspective is based on the value of freedom, from which follows freedom of association, and that “people may choose by whom they are to be governed” (Caney, 2005, p. 153). This is very close to the ideal of a democratic government, but differs by providing less structure and more weight to individual choice. This commitment to individual freedom means that “as free agents, people should be free to choose who is to be part of the political system (who are their fellow citizens) and they may choose the type of political authority (state or otherwise) who is to rule them” (Caney, 2005,

p. 153). This entails many more flexible components than a democratic government does, and appears not to provide with any rules to follow, except that of individual free acceptance. In addition to the argument that the result would be chaotic, Caney observes that the commitment to liberty does not necessarily require individual consent for institutions. An alternative to interpreting liberty as the liberty to choose one's rulers, is understanding liberty as being in an institutional system that promotes and protects liberty (Caney, 2005, pp.153-154). These objections lead us to reject the individualist intrinsic approach.

The collectivist approach is that people or communities have the right to choose their political authority, often expressed as "the right of a people to democratic government" (Caney, 2005, p.154). Caney also rejects this approach, showing that the arguments in favour are unconvincing or problematic. The intrinsic approach, whether individualist or collectivist, does not provide with acceptable results for institutional design.

1.b The All Affected Interests Principle

This view is best represented by David Held and Andrew Linklater. They make two claims, a moral claim: "persons have a democratic right to be able to affect the social-economic-political system in which they live and which determines what they are able to do", and an empirical claim: "the social-economic-political system in which people live (and which determines what they are able to do) is, in part, global in nature" (Caney, 2005, p. 156). Regarding the empirical claim, Held concludes that current phenomena "undermine the conventional belief that democracy is served simply by having states which elect governments" (Caney, 2005, p.157). The consequence of this is that "any purely statist framework is undemocratic because people's lives are profoundly influenced by powers that transcend their state's boundaries" (Caney, 2005, p.157). This is a strong empirical argument against statist frameworks. However, it assumes that the desired framework should be

democratic. It could be argued by statist that other factors are important, such as maintaining state sovereignty, and that the best international framework need not be democratic. The force of this argument rests in the first, moral claim.

Let us now assess the moral claim. Caney rephrases it as democratic political structures should “map onto economic systems and include all who are affected within their scope” (Caney, 2005, p.156). This argument of all affected interests is itself problematic for several reasons. First, as the empirical claim shows, setting the limits of those who are affected is difficult when the economic and political systems are interdependent internationally. In a similar way, “determines what they are able to do” could be understood more strictly, in that only states fulfil this description for their members, or more broadly, in that all other institutional actors are involved. For example one could argue that a particular country determines what foreigners are able to do by denying them working visas, making them unable to work in that country. Caney addresses this objection by presenting an amended moral claim: “persons have a democratic right to be able to affect those aspects of the social–economic–political system in which they live that impact on *their ability to exercise their rights*” (Caney, 2005, p. 158).

I will develop further the all affected interests principle, by looking at Robert Goodin’s analysis of it (Goodin, 2007). His underlying concern is democracy, rather than moral cosmopolitanism. His point of departure is the characterisation of democracy as “groups of people making collective decisions in a democratic way” (Goodin, 2007, p.40). He focuses on the first part of the phrase, the question of “who exactly it is that is to be making those decisions in that democratic way” (Goodin, 2007, p.40). Goodin’s answer is the all affected interests principle. He defines it by quoting Dahl: “everyone who is affected by the decisions of a government should have the right to participate in that government” (Dahl, 1990, p.64).

This raises the question of how the all affected interests principle should be interpreted practically. The first possibility that Goodin offers is the “all actually affected interests” principle, which he however shows to be circular. Only after the decision occurred can one know who was actually affected by it, so it is logically impossible to decide beforehand who should make that decision (Goodin, 2007, pp. 52-53). Goodin rather argues that the best interpretation of this principle is possibilist, the “all possibly affected interests” principle, in other words, “anyone who might possibly be affected by any possible decision arising out of any possible agenda” (Goodin, 2007, p.55). This is an expansive principle, in that it includes everyone globally. As Goodin puts it, “it does indeed provide good grounds for thinking that (at least in principle) we should give virtually everyone a vote on virtually everything virtually everywhere in the world” (Goodin, 2007, p.64).

This raises the question of overinclusion, and whether it is an issue at all. Goodin argues that non-affected people will vote randomly, so that non-affected people will not affect the outcome (Goodin, 2007, p.58). One could even add, based on trends of abstention in current democracies, that if people are not affected, they will simply not vote. However, this is a strong assumption, and it could also be the case that people whose interests are not directly affected will still vote in a non-random way, and thus dilute the votes of affected persons, thus substantially endangering this principle.

Goodin’s conclusion from the possibilist all affected interests principle, which is, he argues, the best solution to the initial question of who should be making decision, is in favour of some form of global political institution. In order to respect the all affected interests claim, there should be some form of supra-national authority, be it a world government or international law (Goodin, 2007, pp.54-55). This supports our cosmopolitan conclusion of the need for global political institutions. Here however, Goodin does not come from a moral cosmopolitan perspective, but rather from the perspective of democracy. With the practice of

democracy as his main concern, Goodin arrives to the same conclusions as those with a main concern in moral cosmopolitanism. The link between the two could be that Held and Linklater claim that people have a “democratic right”, so that one of the fundamental cosmopolitan rights is that of democracy.

Although it is encouraging to encounter a view that supports the same results, I am not fully convinced by the all-affected interests principle, in particular because it is so difficult to implement. Further, it relies on the value of democracy; some could disagree that democracy is the end that should be pursued for itself, which would unravel the whole argument. If one does not think that democracy is the ideal form of government and ultimate goal, then there is no need for the all-affected interests claim.

2. The instrumental approach

The instrumental approach is consequentialist, based on the moral claim: “appropriate political institutions are those that best further cosmopolitan ideals” (Caney, 2005, p.159). This has intuitive appeal: the best political institutions are those that fulfil moral cosmopolitanism. It is outcome oriented, which means that whatever the procedures, what matters is that the outcome is the fulfilment of cosmopolitan ideals. Cosmopolitanism, as expanded upon in Chapter 1, gives the criteria according to which it can be assessed whether the results from institutions are desirable or not.

This moral claim is accompanied by an empirical claim: “supra-state political institutions are required to further cosmopolitan ideals”. The following justifications are given to support this claim:

a. Ensuring compliance: currently, “there are no sanctions or costs to secure adherence to norms of international justice” (Caney, 2005, p.160). This is a large impediment to furthering cosmopolitan ideals. Caney uses this justification in the context of global

distributive justice, and uses a parallel with domestic distributive justice. On a domestic level, the national political authority ensures compliance of duties of redistribution. Thus, to fulfil duties of global distributive justice, there must also be an authority that ensures compliance on a global level (Caney, 2005, pp.159-160). Beyond global distributive justice, ensuring compliance is important for non-distributive justice. For example, rules of warfare, respect of some international conventions, such as human rights, or international criminal law, should also, and perhaps more urgently, be complied with on an international level.

b. Collective action problems: it is the cosmopolitan equivalent of public goods for the national level. Examples of this are given by Pogge (1992), such as the absence of war and a healthy environment. The cost of these is currently externalised, with the result that states have no incentive to shoulder them. Again, it is justified by an argument used on a domestic level, but applied to the global level. The authority of the state is needed to ensure the production of public goods, which wouldn't occur if individuals were left to their own devices. The same is true on a global level: there are global public goods, which individuals and states will not produce if left to their own devices (Caney, 2005, p. 160).

The first two can be related to one of the basic arguments for statist approaches: the idea that the coordinated conduct of a large group of people can only be achieved with law backed up by a monopoly of force, mentioned in chapter 2 (Nagel, 2005, p.115). Both ensuring compliance and collective action problems require the coordinated conduct of a large group of people. As the conduct should occur on a global scale, the law and enforcement must be on a global scale as well.

c. Institutional considerations: this argument is based on the principle that "liberty is best protected when power is not monopolized by one institution" (Caney, 2005, p.160). In the current statist framework, as states have the monopoly on the legitimate use of force, it

means that very little protects citizens if their state persecutes them. Global political authorities would be able to check the power of states, and thus better guarantee liberty.

I believe these are convincing arguments in favour of cosmopolitan law and enforcement, as it is undeniable that there are issues that concern humans on a global scale, for which compliance and collective action are necessary.

Before examining how these principles can be applied in an institutional structure, I will present some current institutions as an illustration of the principles discussed thus far.

Chapter 4: Analysis of current global institutions according to different conceptions of justice

Although this thesis explores global justice from a primarily normative perspective, it also strives to make them applicable. This section aims to be illustrative, rather than exhaustive or comprehensive. It shows how the current institutions fit in the definitions of state sovereignty and how they illustrate the different conceptions of justice presented in the first part. The three examples presented here are the most consequential institutions that can qualify as global. Further, they point to a significant degree beyond a purely statist system. Although they are still dependent on states' voluntarily cooperation, they show the recognition of the need for supranational entities. The UN and the ICC illustrate this in principle more than in practice, and the WTO in practice more than in principle.

1. The United Nations (UN)

The United Nations can be considered the prime current global political institution, setting the standards and the framework for current global political cooperation. It is constituted of six main organs, and a large collection of subsidiary bodies, including funds, programmes, and conventions. Specialised agencies, such as the International Labour Organisation or the World Health Organisation, are integrated into the UN system but remain autonomous. Related organisations, such as the World Trade Organisation, have a different arrangement, but also maintain a relationship with the UN. The UN is an overarching and complex system in which many actors are involved, of all kinds. Almost all global political organisations are in some way related to it. It is too complex to get into full detail about each body and associated body, so I will focus on the main principles underlying the UN.

The UN has four main purposes:

“To keep peace throughout the world;
To develop friendly relations among nations;

To help nations work together to improve the lives of poor people, to conquer hunger, disease and illiteracy, and to encourage respect for each other's rights and freedoms;
To be a centre for harmonizing the actions of nations to achieve these goals.”

(UN, 2014)

Peace throughout the world is a global public good, as identified by Pogge (1992, pp.61-62), and one of the main reasons invoked to support a vertical dispersal of sovereignty. In addition, the fourth purpose is very similar to Caney's proposal that the global political system should be designed such that “competing ideals of justice are mediated fairly”, which will be presented in the following chapter (Caney, 2006, p. 733). The UN adheres to some important intrinsic and instrumental concerns of cosmopolitanism.

However, in contrast to cosmopolitanism, it appears that for the UN, the unit of concern is the state, rather than the individual. Even though the third point indicates a regard for the respect of rights of individuals, the main mechanism it involves is the cooperation of *states*. The second point as well makes states the principal focus: the goal is that states work together.

This statist focus of the UN can be understood in an intrinsic or an instrumental way. From an intrinsic perspective, the UN accepts state sovereignty as fundamental, and acts as an important mechanism for the ideal of the “society of states”. From an instrumental perspective, state sovereignty is not necessarily endorsed, but must be accepted and used for the purposes of the cosmopolitan goals of the UN. It could be that state sovereignty is seen as an obstacle, but with no actual possibility of changing it, so it should be used as a tool for cosmopolitan goals.

II. The World Trade Organisation (WTO)

The WTO is used multiple times as the current example when talking about international institutions and their role in justice, procedural and substantive. It can succinctly be described in the following way: “the World Trade Organization (WTO) deals with the global rules of trade between nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible” (WTO, 2014). Regarding economic relations, the WTO is the prime global organisation. Because of the close link between economics and politics, it has an important political role as well. Cohen and Sabel substantiate their position of already occurring global relations with some empirical claims about current institutional relations, and for this purpose use the WTO as a central example.

The WTO describes its functioning as: “the WTO is run by its member governments. All major decisions are made by the membership as a whole, either by ministers (who usually meet at least once every two years) or by their ambassadors or delegates (who meet regularly in Geneva)” (WTO, 2014). Decision making in the WTO is as follows: “Decisions in the WTO are typically taken by consensus among all member countries and they are ratified by members’ parliaments” (WTO, 2009). The decisions must be agreed upon by the members’ parliament, which suggests that they cannot be imposed on them. The WTO is thus a voluntary agreement and does not conflict with state sovereignty.

The WTO appears to be an instance that recognises governments rather than individuals, thus it violates the principle of “individualism”, one of the foundations of cosmopolitanism. The WTO seems to be a good illustration of the “society of states” ideal, or the second statist counter-argument, that states can produce cosmopolitan goals. The rules of the WTO are the result of negotiations between the members, and if we assume that those are done fairly, then it is a collective effort from states rather than something imposed by a

powerful supra-national authority. States, thus collaborating, produce rules that ensure free trade, and a likely increase in the well-being of everyone globally.

However, Cohen and Sabel argue that it is not as ideal as their mission statement claims. In their opinion, the WTO imposes rules, because states do not have a real option of accepting or declining them (Cohen & Sabel, 2006, p. 168). Indeed, Cohen and Sabel argue that “there is a direct rule-making relationship between the global bodies and the citizens of different states”, and that “in an attenuated but significant way, our wills-the wills of all subject to the rule-making authority-have been implicated, sufficiently much that rules of this type can only be imposed with a special justification” (Cohen & Sabel, 2006, p. 168). The argument of imposing a rule “in the name of” those who follow it is here invoked to show that nation-states are not the only boundaries within which this occurs. This is a direct challenge of the political conception, and a strong argument in favour of discussing procedures: as these relationships are already occurring, we must work to make them as just as possible.

The WTO can also be analysed in the perspective of equalising the power of states. One of Caney’s arguments for global political institutions is that it gives more power to the vulnerable (Caney, 2006, pp.745-747). Amrita Narlikar makes the argument that “multilateral institutions thus constrain the actions of individual states: they offer a rule of law rather than an anarchy in which powerful states can simply avoid commitments that disadvantage them” (Caney, 2006, p. 737, referring to Narlikar, 2005, pp.6-7). Unfortunately it isn’t always the case, “it might be said that powerful states may be able to manipulate the commonly agreed-on rules in their favor”, which is “borne out by the experience of the WTO” (Caney, 2006, p.737). This shows that the WTO is not currently its ideal of “society of states”, and that although it provides some constraints to hegemons, hegemony is still possible and occurring.

III. The International Criminal Court (ICC)

The International Criminal Court is one of the main instruments of justice on a global scale. It is distinct from the International Court of Justice, which is the judiciary body of the UN. It prosecutes individuals for genocide, crimes against humanity and war crimes. Its functioning is complementary to national courts, in that the ICC may only operate when national courts are unwilling or unable to. Unfortunately, “the court does not have universal jurisdiction” (ICC, 2014). One of the conditions is that the accused must be a national, State Party or State otherwise accepting the jurisdiction of the Court, or that the crime took place on the territory of a state otherwise accepting the jurisdiction of the Court (ICC, 2014). This means that even though a person has committed a crime against humanity or a war crime, if that person is from a country that does not accept the jurisdiction of the Court, then that person cannot be prosecuted by the ICC. This sets a strict limit to the possibilities of functioning of the court. It respects state sovereignty, and in consequence moral cosmopolitan ideas will not be respected.

The ICC is dependent on states accepting its jurisdiction. However, once they do, the ICC has jurisdiction over the individuals accused of those crimes. This makes the ICC an institution with cosmopolitan values, concerned with individuals, but facing statist obstacles, mainly the acceptance of its jurisdiction from states. In its current state, the ICC could even be said to be unjust, as it prosecutes some individuals and not others. However, this inequality in prosecution is due to its jurisdiction, which states have to voluntarily adhere to. It can be argued that a powerful state will refuse this jurisdiction, as they do not want their members prosecuted, or that the prosecution of a member of a powerful state will lead to that state withdrawing from the ICC, such as when the United States withdrew from compulsory jurisdiction of the International Court of Justice in 1986, when the court ruled that it was in violation of international law.

In conclusion, it appears that the preferred system is the “society of states” system, and that current international affairs are built on the philosophical foundation that states can cooperate with each other to produce common goods. The current system is thus built on respecting state sovereignty. However, it is not clear, and from the evidence of current deprivations, unlikely, that this is the best system. The adherence to state sovereignty could be because change is incremental, and this is the current distribution of authority, or it could be because many believe that it is a fundamental value that must be maintained.

Chapter 5 : Institutional Proposals for Global Justice

After arguing for why there is a need for global political institutions, and seeing how current global political institutions fit in the theoretical frameworks presented, I will now make more concrete institutional claims that would further global justice.

1. Balancing the intrinsic and instrumental approaches for institutional design

Unfortunately, intrinsic and instrumental approaches do not always converge. In cases where they lead to different outcomes, the intrinsic approach will favour political institutions that are subject to self-determination (for example), regardless of whether they lead to an outcome that is just from a substantive point of view. The instrumental approach will evaluate institutions on the outcomes they produce, regardless of how the decisions were made. Ideally, both the process and the outcome would be just, but in the case of conflict, it must be settled which one prevails. This section will study competing claims supporting one or the other view, and provide with indications on how to balance these considerations in case of conflict.

I will present three different views in the literature substantiating these intrinsic and instrumental considerations, and how they should be balanced.

1. Cohen & Sabel - incorporating philosophy in current debates and existing institutions

Cohen and Sabel base their philosophical arguments on rather empirical considerations. They claim that the debate about what justice demands beyond the state “is already part of the world of global politics” (Cohen and Sabel, 2006, p.150). As this debate is already occurring, there is benefit in adding to it the perspective of philosophy. They expand on this justification: “in times of transformation of fundamental human relations, political philosophy can tell us where, in the space ranging from humanitarian obligation to egalitarian

justice, to look for answers, and can suggest what we might find” (Cohen and Sabel, 2006, p.175).

Their strategy is that instead of considering a purely normative question, they look at current forms of association that connect actors, and discuss the appropriate procedural and substantive moral norms for these associations (Cohen and Sabel, 2006, p.174). They present the conditions of global politics, and explain why they generate both procedural and substantive norms. They give many examples of current supranational institutions and their practices, questioning whether they do or do not trigger requirements of justice, whether humanitarian or socio-economic, keeping in mind considerations brought up by Nagel. They claim that what matters is that “these controversies are occurring at all” (Cohen and Sabel, 2006, p.172). Speaking of the IMF and the WTO, they argue that “the fact that the impositions and rules are binding on [people] adds strength to [the] claim that the rule-making process needs to conform to more demanding procedural and substantive standards” (Cohen and Sabel, 2006, p. 168). The procedures they propose are: “the rule makers consider themselves obligated to give some weight to the reasonable concerns of the rule takers” and “the rule takers, who are subject to global rules, see themselves as entitled to a say in establishing what the rules will be” (Cohen and Sabel, 2006, p. 172). What is important here is inclusion, a concern that is recurrent in their argument.

2. Pogge - proposal of procedures, justified by outcomes

Pogge is motivated by currently unjust outcomes, which give the impetus for reform. He claims that “the existing global institutional scheme [is] unjust insofar as the pattern of human rights fulfillment it tends to produce is inferior to the pattern that its best feasible alternatives would tend to produce” (Pogge, 1992, p. 54). His proposal for institutional change is to disperse governmental authority, or sovereignty, in the vertical dimension

(Pogge, 1992, p.58). Before giving more detail on how and why this should be done, he responds to two main objections to this founding principle. The first disputes that “sovereignty can be divided at all” (Pogge, 1992, p.59). Pogge replies with the example of the division of powers within a government, or federal states, showing that it works quite well in practice. There remains the possibility of conflict where there is no predetermined legal answer, but these have proven to be rare and solvable. It should be noted that this is an empirical counter argument. The second objection is more specific: “there are certain vertically indivisible governmental functions that form the core of sovereignty” (Pogge, 1992, p.60). Pogge however shows that there are no examples of such functions that aren’t already successfully divided vertically.

He presents four main reasons why sovereignty should be dispersed vertically. The first is peace and security. The rivalries between states sometimes ends in military conflict, and fuels competition for weapons. However, completely getting rid of weapons can only feasibly occur under a mandatory scheme rather than voluntary cooperation (Pogge, 1992, p.62). The reasoning behind this is instrumental: the elimination of these weapons needs to be centrally enforced, which violates state sovereignty. This is justified because of its results, which are greater peace, an increase in security, and a decrease in the loss of human lives. These are results that are deemed worthy, that justify a supra-state institution with the power to make agreements binding for states.

The second reason is the reduction of oppression. This could be framed as the negative aspect of absolute state sovereignty. In a situation where states are the absolute sovereigns of their populations, states can do whatever they please to their population, and are accountable to no one. Pogge suggests to reduce this with the “vertical dispersal of sovereignty over various layers of political units that would check and balance one another as well as publicize one another’s abuses” (Pogge, 1992, p.62). Just as the previous one, this is

an instrumental argument, showing that vertical dispersal of power is good because of its outcome.

The third reason is global economic justice. Pogge uses empirical data to point to injustice, in this case that “over 20 million persons die every year from poverty-related causes”, which “calls for some modification in the prevailing scheme of economic cooperation” (Pogge, 1992, p. 62). This point is especially important because it is not only an end in its own right, but also because it reinforces the previous two points about war and oppression.

Although all three suggest some form of centralisation, Pogge does not advocate for a form of global government, because, as many criticisms point out, this would create a very high risk of oppression. On the contrary, he advocates for a multilayered scheme which offers many checks and balances, and allows for the protection of the abused, publicising of the abuses, and if necessary, fighting of the oppressors (Pogge, 1992, p.63).

The fourth and final reason is ecology. There are currently significant negative externalities on the environment, but within a system of sovereign states, it is very difficult to internalise them, for example because of collective action problems. Some examples include the consequences of climate change or pollution. As the previous three, this argument is based on the outcome, which is currently unjust and must thus be amended.

From these outcome-oriented considerations, Pogge makes some prescriptions on which procedures are desirable. The first is that “decision making should be decentralized as far as possible” (Pogge, 1992, p.65). This is justified in the following way. In the case of decisions being morally closed (there is a right answer), “outsiders are more likely to lack the knowledge and sensibilities to make responsible judgments” (Pogge, 1992, p.65). In the case that decisions are morally open, “the end must be to maximize each person’s opportunity to influence the social conditions that shape her life” (Pogge, 1992, p.65).

The second prescription is that centralisation is favoured “insofar as [it] is necessary to avoid excluding persons from the making of decisions that significantly (and legitimately) affect them” (Pogge, 1992, p.65). This is based on the right to political participation for decisions that affect one’s life. Pogge supports this by showing that some elements are shared, globally, and decisions over them should thus be made globally. Examples are decisions that affect the natural environment, or on prevailing institutions that significantly shape how we can lead our lives (Pogge, 1992, p.65). He thus makes mainly procedural proposals, justified by their expected outcomes.

Pogge’s position is strongly based on the right to political participation. This right raises some questions. Does this right entail a duty of political participation? If people, morally, should have a right to have a say in what influences their life, does it follow that they are bound to? If it requires such a big fight to give people that right, what happens when they do not use it? Is the result still moral, if people don’t participate in the decision, even though they have the possibility to?

3. Caney - balancing procedures and outcomes

Caney develops and supports a mixed view, balancing both intrinsic and instrumental claims. He even argues as to how it cannot be the case otherwise. He states that “a wholly instrumentalist position is implausible as a way of thinking about (global) institutional design” (Caney, 2006, p. 730). Instrumental approaches are focused on the outcome, and thus are dependent on whatever is chosen to be the best conception of justice. However, Caney argues that there is too much disagreement on what the best conception of justice is. In particular, it poses two problems. The first is that “it requires us to be able to decide which of these competing reasonable views really is the best” (Caney, 2006, p. 731), and the second is

that “a wholly instrumental view can be accused of failing to show respect to other reasonable persons” (Caney, 2006, p. 731).

Similarly, a fully intrinsic position is implausible as well. Although proper procedures are necessary, sometimes there are more urgent moral concerns than them. He formulates the tension between the two approaches, intrinsic and instrumental, in the following question: “is our prime concern the deprivation in this example or, alternatively, is it the fact that we cannot hold institutions to democratic account?” (Caney, 2006, p. 732).

Caney proposes the following view: “the global political system should be designed so that (a) it ensures that persons' fundamental interests are protected, and that (b) above that threshold level competing ideals of justice are mediated fairly” (Caney, 2006, p. 733). Requirement (a) concerns outcomes, and requirement (b) procedures, thus maintaining the importance of both.

In another one of his works, Caney identifies the case of conflict between the intrinsic and instrumental approaches occurring when “the people whose rights are affected by an institution or set of institutions are less competent at making decisions that secure their rights and entitlements than a non-democratic body” (Caney, 2005, p.161). The intrinsic approach would favour the people keeping their authority over the institutions affecting their rights, and the instrumental approach would favour the institutions making the decision to secure rights, even if it goes against the people's will. Caney says that this is highly unlikely in practice, because “it is difficult to see why non-democratic bodies would have both the knowledge and the inclination to further economic, civil, and political rights” (Caney, 2005, p.161). Although it is theoretically possible to have a conflict between the intrinsic and the instrumental approach, it remains unlikely that this conflict will occur.

Because of my scepticism at the all affected interests principle, and the concrete application of the principle of political participation, I am more in favour of an instrumental approach than an intrinsic one. Indeed, what matters is that the goals of cosmopolitanism are applied, and in the case of a conflict between the procedures and the outcomes, I am in favour of the outcomes. Ideally, both will be respected, and just procedures will lead to just outcomes, from a cosmopolitan perspective. One way to think about the weight given to procedures or outcomes is asking the question: is a political system that fully protects its citizen's rights, but which has never been elected, and never will be elected, better or worse than a system in which there are free and fair elections but which regularly abuses the rights of its citizens?

II. Proposal for Institutional Design

Taking into account all the considerations present in previous parts, I will now make a proposal for global political institutions. This proposal is purposefully vague, focusing on general criteria to be fulfilled by an institutional design, rather than a specific institutional design that is better than any other. A more concrete proposal should take into account considerations in disciplines other than political theory, such as international relations or economics. What I will present here are guidelines that can be used to assess current institutions, and make more concrete institutional plans for the future.

1. Proposed Global Political Institutions

The core principle is the vertical division of sovereignty. Indeed, this serves the dual goal to prevent boundless power from any one institution, and to distribute decision making to the most appropriate level, that is, decisions that can best be made on a local level will be made on that level, and decisions that are best made on a global level will be made on that

level, with all intermediate levels possible. This view is supported by both Caney and Pogge. This also means that the state in itself is not completely abolished. Surely many decisions will be made on the state-level, and in this proposal it still remains an important institution. However, it is not the only institution, and it is not supreme. The state becomes one level of political authority among others.

One of the simplest, and most appealing, summary of the proposed global political institutions is formulated by Caney: “the global political system should be designed so that (a) it ensures that persons' fundamental interests are protected, and that (b) above that threshold level competing ideals of justice are mediated fairly” (Caney, 2006, p. 733). The first point would fulfil the requirements of moral cosmopolitanism, which are individualism, universality and generality. The second point would ensure moral cosmopolitanism as well, but with a focus on procedures. Cosmopolitanism is about equality on a global scale. The first point focuses on equality in the rights and treatment of people worldwide, and the second point focuses on equality in participation to those rules, and deliberation of different views of justice. Justice occurs both in the securing of fundamental rights, and in ensuring that there is a possibility for contribution. There is not one view that is presented as superior to others, rather what matters is the fair mediation between them, which makes this system a deliberative one.

The result is a “multilevel system of governance”, with “state-like political systems that possess considerable autonomy but are not fully sovereign, and in which authoritative decision-making powers are also held by regional organizations (akin to the EU), global institutions, and sub-state political authorities” (Caney, 2006, p. 725). The state may still exist, but it may not remain sovereign. Rather, some political authority is possessed at the global level, some at the regional (multi-state) level, some at the state level, and some at a local (sub-state) level.

There are a few precisions that can be added. One is the proposal of an international “ombudsmen” (Caney, 2006, p.747). Its role would be “to check whether international institutions comply with their mandate” (Caney, 2006, p.747). It is a method of accountability that is already in place at the state level, and which should be at the global level as well. In addition, it has a role in “empowering the vulnerable to protect their interests” (Caney, 2006, p.748), an important point to achieve cosmopolitanism’s concern for global equality. Ombudsmen are limited in that their function is structured by the mandate: they can only judge compliance to the mandate, not whether the mandate itself is just. However, any fair system of institutions should have checks and balances, and this would be an important element for that purpose.

Although I do not fully endorse the democratic right to political participation for all individuals on a global scale, or the all affected interests principle, I endorse a global deliberative system such as suggested by Caney. This is because I agree with his argument that there are many reasonable conceptions of justice.

2. Assessing this institutional proposal with the components of sovereign statehood

The proposed framework can be assessed with the four components of sovereign statehood described above. It is particularly interesting because “it rejects not simply a global system of states but also the utility of relying on sovereign statehood itself” (Caney, 2005, p.163). This is important as most of the current global political framework is based on this concept of state sovereignty, and perhaps the resistance against cosmopolitan efforts is the attachment to this current state of affairs. By showing how each property is affected in the cosmopolitan framework, and that sovereign statehood is not a “natural property” or absolutely necessary for a global political order, we can build a strong argument for

cosmopolitan institutions and against states as the ultimate locus for justice. We will examine each property and see how it is treated in a cosmopolitan framework.

Regarding comprehensiveness, the instrumental and intrinsic cosmopolitans argue in favour of institutions that do not require this property. Indeed, “there is a case for different institutions operating at different levels and addressing different policy issues” (Caney, 2005, p.163). This lack of comprehensiveness has consequences on another property, namely supremacy: “a system in which no institution has comprehensiveness also lacks supremacy” (Caney, 2005, p.163).

In response to objections of feasibility or efficiency, Caney retorts “this is often said to be a problem but, from an instrumental cosmopolitan perspective, it is an advantage since it prevents the centralization of coercive power. It forces people and different institutions to negotiate and cooperate with each other” (Caney, 2005, p.163). The idea of coercion was one of the main concepts behind the political conception of justice. Here, the institutional suggestions made by cosmopolitans aim to reduce coercion, which would have the broader consequence of depriving statist of their main argument for the occurrence of justice only within state borders.

The point on institutional considerations directly addresses the point on supremacy. It does not call for supremacy to be shifted from a domestic to an international level, but rather for it to be discarded altogether. Supremacy is a property that is dangerous for liberty, as the entity which has supremacy can do whatever it wishes to the people who fall under it. Cosmopolitan institutional considerations thus claim that supremacy is not a necessary property for political government, and even that it is an undesirable one.

Regarding legality, I will focus on Pogge’s definition, which is the ability to make laws, to judge whether they are being complied with, or to enforce them. All of these will also be divided vertically, as political authority is. This could create some problems, if some

lower-level laws conflict with higher-level laws, and thus it should be pre-established which ones would take priority. Perhaps the highest level law should take priority, but this might raise the possibility of a coercive global system. It could be approached in the same way as the other vertical division concerns: what concerns the global level is decided on a global level (for example, trade laws or environmental laws), and what is more local is decided more locally (for example, education curricula). Sovereignty would remain a juridical concept, only the state will not be the sole entity which possesses it. Rather, sovereignty would be shared and spread across the different levels of institutions.

Territoriality is a property that would be greatly amended. It could remain as is, meaning that sovereignty of a particular institution applies to people within a certain territory. Each level of the global institutional system would have its own territory on which it applies its sovereignty. Territoriality remains, but it no longer applies to the state as the principle entity.

Thus the cosmopolitan proposal for a vertical division of sovereignty discards the properties of supremacy and comprehensiveness, and reallocates legality and territoriality to the different levels, with which the state will share sovereignty.

Having presented a cosmopolitan proposal for global political institutions, I will now turn to statist objections to such institutions.

III. Responding to statist objections: why keeping a statist structure does not serve cosmopolitan goals

The statist objections to the cosmopolitan institutional view hold that state systems are very well able to fulfil these goals, and that no supra-state system is needed. It should be noted that these are all instrumental objections. They do not automatically reject moral cosmopolitanism, rather they argue that states are better able to fulfil these goals than global

political institutions. I will follow the same structure as Caney, who divides such arguments into four categories.

1. The liberty claim

The first statist objection is based on liberty, and claims that “global political institutions would prove to be tyrannical” (Caney, 2005, p.164). This criticism however does not hold against the view presented in this thesis, and rather shows a deep misunderstanding of the institutional goals of cosmopolitanism. There are two main considerations on which this objection is based. The first is that the centralisation of power threatens freedom, and global political institutions, most particularly in the form of a global government, would involve a large centralisation of power (Caney, 2005, p.164). A similar concern is expressed by Danilo Zolo. He also fears that a global government would end in “an absolutely ‘sovereign’ and uncontrollable institution and would consequently make both the international protection of rights and the search for peace even more precarious” (Zolo, 1997, p.121). He attributes this to the trend that “transnational institutions tend to be partial to the interests of major powers” (Caney, 2005, p.164).

Rather than being a convincing counter-argument, this further supports the institutional goals of cosmopolitans, who wish to fragment power, which is now in majority held by states. Indeed, the cosmopolitan reforms proposed here in the fifth chapter are “built on the principle of dividing power to render political institutions accountable” (Caney, 2005, p.165). This statist objection instead shows that similar concerns motivate statist and cosmopolitans, namely the safeguard of liberty. In addition, cosmopolitans can argue that on the contrary, a state system is more restrictive to liberty than a cosmopolitan one, as the statist framework “grants to states untrammelled power to persecute their people” (Caney, 2005, p.165). Further, in response to Zolo’s argument, cosmopolitans can defend that these

transnational institutions are partial to the interests of world powers in the current statist framework, but that modifying this framework will render such takeover impossible.

The second consideration is that states give an escape option. Under a global government, there is nowhere that people could escape to if they are unsatisfied with their government. This is indeed a strong objection, in the sense that a global coercive rule that limits rights is undesirable. Again, this supports the cosmopolitan proposal for a multi-level system of governance, whose goal is to secure rights and entitlements, and rather redistribute power so it is not in the hands of solely one entity. On a more empirical level, Caney observes that “it is not true that the states system guarantees people a right to emigrate” (Caney, 2005, p.165). Either the state can prevent it, or no states will receive the people legally, or the people do not have the means to move, for example because they are too poor.

2. Cooperative states

The second statist objection is that “the advantages claimed for global political institutions can be provided by states” (Caney, 2005, p.164). Caney uses Hedley Bull’s book *the Anarchical Society* (1977) to illustrate this argument. There are several arguments that support this view. A first is that “many of the problems that afflict global politics have their roots in factors other than the existence of states” (Caney, 2005, p.166). However, this is too narrow a view: it is not because it was not the initial cause of these problems that it plays no role in sustaining them, or even in aggravating them.

A second argument is that in a statist order, states “may cooperate to provide the goods in question”, referring to stability, justice, and environmental protection (Caney, 2005, p.166). This argument deserves close consideration, as it is compatible with instrumental cosmopolitanism. If it is correct, then those who support an instrumental cosmopolitan view for institutions can support a statist order. This debate is purely empirical, one must prove

which institutional system is more likely to provide these goals that would fulfil moral cosmopolitan requirements, a statist system or a system of global political institutions. Caney invokes the argument of compliance: compliance, to be ensured, must be made mandatory rather than optional, and this will further decrease transaction costs and prisoner's dilemmas (Caney, 2005, p.167). Indeed, if these goods are best produced by cooperation, then it appears desirable to want to produce circumstances most conducive to cooperation, which are often an institutional structure in which each party is assured of the compliance of the others. A purely statist order would result in the possibility of cooperation, whereas global political institutions would make that cooperation compulsory.

3. Reforming the internal structure of states

The third statist objection claims that cosmopolitan objectives can be reached by reforming the internal structure of states, without the need for global political institutions (Caney, 2005, p.164). This argument is based on the position that the best suppliers of cosmopolitan goods are the states themselves, and that the priority should not be in reforming the global political structure, but in reforming individual states so they can provide with the goods that cosmopolitans value. One example, based on Sen, is that "democratic institutions prevent the occurrence of famine" (Caney, 2005, p.167). Ensuring that individual states are democratic would ensure subsistence to all globally. A similar argument is that democracies have been shown not to go to war against one another (Caney, 2005, p.168). A system of democratic states would reach cosmopolitan goals, so the goal is to have all democratic states. Caney retorts that these arguments do not "show that global institutions are wrong: if correct, it shows just that they are unnecessary" (Caney, 2005, p.168).

In Caney's explanation of why this approach is theoretically implausible, there is one objection that I find particularly interesting. As the officials of democratic governments are

elected by their citizens, they must reflect the wishes of these citizens, and so will only pursue cosmopolitan goals if their citizens deem it desirable. This is a rather strong objection, I believe, especially in light of recent elections in Europe where citizens showed hostility towards immigrants (the anti-immigration referendum in Switzerland on February 9th 2014, and large victories of extreme-right parties in the European Parliament elections in May 2014). A further problem is that this vision “ignores the effects of the international order on the ability of states to be democratic” (Caney, 2005, p.169). A system composed purely of democratic states is not sufficient to guarantee cosmopolitan goals.

4. The “society of states” and individual flourishing

The fourth statist objection is the one presented by Frost, in his proposal for a ‘society of states’ (Caney, 2005, p.164). Frost’s central claim is that “sovereign states and the system of sovereign states are necessary to the flourishing of individuality” (Frost, 1996, p.155). Frost defends first the importance of states, and then of them being members of the “society of states”. According to Frost, the state “is needed to overcome an atomized society and to provide political unity and recognition” (Caney, 2005, p.171), and without it, people “feel alienated” (Frost, 1996, p.148). The state has an important value to individual well-being. If this position is accepted, then moral cosmopolitans should endorse the state, as they are concerned with individuals. Frost brings this one step further. He claims that this personal benefit from being part of a state occurs “only if their state is accorded respect by other states” (Caney, 2005, p.171). This respect takes the form of the “society of sovereign states” (Frost, 1996, p.148).

This assumes several things. The first assumption is that people derive well-being from being part of a state. It could be argued that, similarly to the family or civil society, there is another kind of group that people can derive their well-being from, such as religious

groups, ethnic groups, or cultural groups. One could even argue that viewing the state as the only entity that can save people from alienation is arbitrary, especially as some citizens do not identify themselves with their state. Examples of such people are people from political minorities, whose representatives are never in power, or people from ethnic groups that cross state boundaries. A defence of these arguments could be made based on the arguments that Nagel uses to establish the state as the only legitimate locus of justice: because of the specific characteristics of the state, only it can save people from alienation.

The next assumption is that states only provide with this well-being to its members if it is respected by other states. According to Frost, this respect must take a particular form: the society of sovereign states. Frost seems to imply that in order to be respected by other states, and so in order for the citizens to reap the benefits of being part of a state, the state must remain sovereign. This would exclude any kind of global political institution with sovereignty over states, or any kind of binding international law to which states must comply. This point is taken up by Caney as well: “what is questionable is whether this good - the good of membership in autonomous political units - requires sovereign states” (Caney, 2005, p.171). Based on Hegel’s perspective, which is the foundation from which Frost derives his argument, Caney shows that sovereignty is not a necessary property. In particular, it does not require that the political regime have unlimited authority (Caney, 2005, p. 171). Individuals can be part of political entities that will give them well-being, these can be recognised and respected by others, while being subject to global political institutions. This Hegelian perspective of the importance of membership on a political unit is compatible with the cosmopolitan perspective presented in this thesis.

In conclusion, these statist objections are not successful in undermining a cosmopolitan political structure. Either they reinforce it, or only prove that it is unnecessary.

Conclusion

As Nagel said, “we do not live in a just world” (Nagel, 2005, p.113). However as Pogge said, the existing global institutional framework is “in fact imposed by human beings who are collectively quite capable of changing it” (Pogge, 1992, p.53). This thesis has attempted to provide with normative reasons as to why we must change it, and some normative and practical considerations about how this could be done.

The current global institutional framework should be changed because it is not just, as defined by cosmopolitanism. Cosmopolitanism is concerned with the equality of persons globally, regardless of any groups or states they are part of. The current global institutional order does not reflect this. Other conceptions of justice with global scope were presented, but it was argued that cosmopolitanism offers the best conception of justice.

What is taken issue with here is not the existence of states, but rather their absolute sovereignty. It is recognised that states provide some important benefits, logistical as well as immaterial, such as an administration, and a sense of belonging. What this thesis rejects is the absolute sovereignty of states, especially the characteristics of supremacy and comprehensiveness. What it rejects is that state boundaries are accorded so much moral importance.

The institutional solution sketched here is to have a multi-layered form of government. This would be the best system to ensure both fair procedures, in particular deliberative ones, and fair outcomes, respect of rights and equal consideration for all humans worldwide. This solution rejects the concept of state sovereignty as one that is important for governing. Although some elements remain, there is no need for the supremacy of one entity. On the contrary, the absence of a supreme and comprehensive authority is the best guarantee that there will be no blatant possible abuse of rights.

For a more just world, we must thus stop thinking in terms of states, and think more in terms of individuals, equal globally, and how fundamental international law can gain universal legitimacy.

Bibliography

Bull, Hedley. (1977) *The Anarchical Society*, Palgrave

Caney, Simon (2005). *Justice beyond borders: a global political theory* Oxford University Press

Caney, Simon (2006) "Cosmopolitan Justice and Institutional Design: an Egalitarian Liberal Conception of Global Governance" *Social Theory and Practice*, vol. 32, No. 4, pp. 725-756.

Caney, Simon (2008). "Global distributive justice and the state." *Political Studies* 56.3: 487-518.

Cohen, Joshua, and Charles Sabel (2006). "Extra rempublicam nulla justitia?" *Philosophy & Public Affairs* 34.2 : 147-175.

Dahl, R. A. (1990). *After the revolution?: authority in a good society*. Yale University Press.

Frost, Mervyn (1996). *Ethics in International Relations: A Constitutive Theory* (Cambridge: Cambridge University Press).

Goodin, R. E. (2007). "Enfranchising all affected interests, and its alternatives". *Philosophy & public affairs*, 35(1), 40-68.

Held, David (1995). *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (Cambridge: Polity)

ICC (2014). "ICC - Jurisdiction and Admissibility". Web. Accessed 8 June 2014
http://www.icc-cpi.int/en_menus/icc/about%20the%20court/icc%20at%20a%20glance/Pages/jurisdiction%20and%20admissibility.aspx

Nagel, Thomas (2005), "The Problem of Global Justice," *Philosophy & Public Affairs*, 113-47

Narlikar, Amrita (2005), *The World Trade Organization: A Very Short Introduction*. Oxford: Oxford University Press

Philpott, Daniel (1999). 'Westphalia, Authority, and International Society', *Political Studies*, 47 Special Issue on Sovereignty at the Millennium: 566–89.

Pogge, Thomas (1992), "Cosmopolitanism and Sovereignty," *Ethics*: 48-75

UN (2014), "The United Nations at a Glance." UN News Center Web. accessed 05 June 2014. <http://www.un.org/en/aboutun/index.shtml>

Waltz, Kenneth (1959). *Man, the State and War: A Theoretical Analysis*. New York: Columbia University Press.

WTO (2009), “The World Trade Organization in brief”
http://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr00_e.htm

WTO (2014), “WTO | What Is the WTO? - What We Do”. Web. Accessed 06 June 2014
http://www.wto.org/english/thewto_e/whatis_e/what_we_do_e.htm

Zolo, Danilo (1997). *Cosmopolis: Prospects for World Government*, translated by David McKie (Cambridge: Polity).