

Equality or a Minimal Standard in Global Justice?

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A. Introduction

According to a report by the World Bank, the wealthiest 34 countries – with 14.9% of the world's total population – control 78.4% of the world's net income, while the poorest 46% of the world's population control only 1.25%.¹

Not only is the distribution of wealth, and along with it, power, highly unequal, but the disparity between the richest and the poorest countries has steadily increased in recent years² and it is well known that economic aid from the rich to the developing countries has been on the decline. The devastating consequence of this has been the impoverishment of a significant part of the world's population, where a staggering 1.5 billion people live below the poverty line.

Considering the increasing interdependence among countries, this growing inequality in the distribution of resources could potentially affect everyone. Thus, it is not an exaggeration to claim that the question of global justice is the greatest challenge for political philosophy this century – not to mention for politics itself.

There is a dispute as to the causes of this dramatic economic inequality among people. Following in the footsteps of Rawls's theory of justice, political philosophy has turned increasingly to the question of the universality of moral standards, which are inextricably intertwined with the demands of justice. In fact, the literature has become too extensive to keep track of. Some philosophers have not shied away from making concrete suggestions as to how to provide for a more just distribution of wealth or of the proceeds stemming from the use of natural resources. These suggestions are undoubtedly welcome as contributions to the complex search for feasible solutions, but philosophy should constrain itself to questions of principle. It should ask, for example, to what extent is

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¹ World Bank, *World Development Report 2000/2002*, at 275 (2001). <http://www.worldbank.org/poverty/wdrpoverty/report/index.htm>.

² In 1997, the relationship between the wealth possessed by one-fifth of the world's population in the richest countries and that possessed by one-fifth in the poorest countries was 74/1. In 1990 it was 60/1 and in 1960 30/1. According to a report by the UN Development Program, it was only 11/1 in 1913. United Nations Development Program [UNDP], *Human Development Report*, at 3 (1999). Cf. T. Pogge, *Priorities of Global Justice*, in T. Pogge (Ed.), *Global Justice* 6-23, at 13 (2001).

distress and inequality of opportunities, which lead to moral and political problems, present in the majority of the world's population? On whom does the responsibility fall to address these demands of just distribution? Is it justified to grant neighbours and fellow citizens priority over citizens of foreign countries in the distribution of goods?

In the following article, I shall concentrate on the fundamental question: on what principle do we want to base the theory of global justice? On a principle of equality (of chances, opportunities, resources, etc.), or of a minimal standard, to which every individual has a justified claim? I shall address these two positions, both of which endorse the opinion that affluent and powerful groups of people have a special moral responsibility with respect to poorer groups. They are also bound to strive for a more balanced distribution of the advantages and burdens that stem from international co-operation and environmental resources. Whereas the two positions mentioned above are in agreement about this moral requirement, they differ in their characterization of injustice. According to one position, injustice lies in "the violation of elementary, absolute standards of justice," which makes it impossible to live a life worthy of a human being.³ For the other position, injustice lies in the violation of a substantive requirement of equality. In other words, the first position follows a "need-based approach"⁴ and the other an "equality-based approach" to the problem of global justice.

In the first part of the article, I will distinguish between these two basic principles and attempt to demonstrate their concrete implications for global justice (B). In the second part, I will examine the arguments that led Rawls – in the context of the theory of international relations – to reject the egalitarian premises of a theory of distributive justice within individual societies (C). In the third part, I am going to review arguments in favour of a principle of assistance, which defines a minimal standard of elementary needs (D). In the final section, I will show that the non-egalitarian critique is mistaken in treating the principle of equality as a derived principle (E). My argument can be summarized as follows: if the idea of a minimal standard is necessary for the realization of basic rights on a global scale, it is nevertheless not a sufficient condition for the realization of justice. The concept of 'justice' is closely bound to that of equality.⁵ Hence, it will be necessary to explicate an appropriate conception of equality.

³ A. Krebs, (Ed.), *Gleichheit oder Gerechtigkeit, Texte zur neuen Egalitarismuskritik* 21 (2000).

⁴ A. Sen, *Rights and Capabilities*, in *Resources, Values and Development* 301 (1984).

⁵ Cf. S. Gosepath, *Über den Zusammenhang von Gerechtigkeit und Gleichheit*, in L. Wingert & K. Günther (Eds.), *Die Öffentlichkeit der Vernunft und die Vernunft der Öffentlichkeit*. Festschrift für Jürgen Habermas 403-433, at 406 (2001).

B. Egalitarianism within Individual States and Non-Egalitarianism on a Global Scale?

It is debatable what role the basic principle of equality should play in the distribution of goods and burdens. In the wake of Rawls's *Theory of Justice* (1971), many theorists have vested the principle of equality with a moral value, which they consider decisive in assessing the legitimacy of the distribution of basic social goods and burdens.⁶ Others – especially in recent years – have called this very principle into question, and, thereby, also its appropriateness as a basic value to be acknowledged.⁷ True, as George Orwell wrote: “a fat man eating quails while children are begging for bread is a disgusting sight,”⁸ but the advocates of non-egalitarian justice theories argue that, if this example is shocking, it is not because of the unequal distribution of goods, but because of the destitution of the hungry. The inequality between two people – so they continue – is not shocking or outrageous when both people have sufficient means to lead a life worthy of a human being. What is shocking is not that some people have more than others, but that some do not have enough at all.

According to advocates of a non-egalitarian conception, a theory of justice should not insist on regarding equality as an end in itself. On the contrary, it should strive to secure the conditions of a worthy life. Whereas the egalitarians⁹ employ the principle of equality in a relational (namely a comparative) sense, the non-egalitarians support the principle of justice by appealing to the ideas of ‘sufficiency’, ‘standards’¹⁰ and ‘priority’¹¹, which establish a threshold of needs necessary to be met. In other words: what counts from the perspective of non-egalitarian criticism is that everyone should have access to the basic necessities

⁶ Some of the best-known among the authors writing in English are R. Dworkin, *Sovereign Virtue. The Theory and Practice of Equality* (2000); A. Sen, *Equality of What?*, in McMurrin & Sterling (Eds.), *The Tanner Lectures on Human Values 1*, 195-220 (1980); A. Sen, *Inequality Reexamined* (1992); T. Nagel, *Mortal Questions* (1979). For literature in German, see E. Tugendhat, *Leichheit und Universalität in der Moral*, in M. Willaschek (Ed.), *Moralbegründung und Gerechtigkeit* (1997); S. Gosepath, *Zu Begründungen sozialer Menschenrechte*, in S. Gosepath & G. Lohmann (Eds.), *Philosophie der Menschenrechte 146-187* (1998); S. Gosepath, *Über den Zusammenhang von Gerechtigkeit und Gleichheit*, in L. Wingert & K. Günther (Eds.), *Die Öffentlichkeit der Vernunft und die Vernunft der Öffentlichkeit. Festschrift für Jürgen Habermas*, 403-433 (2001).

⁷ See J. Raz, *Morality of Freedom*, chapter 9 (1986); H. Frankfurt, *Equality as a Moral Ideal*, 98 *Ethics* 21-43 (1987); E.S. Anderson, *What Is the Point of Equality?*, 109 *Ethics* 287-337 (1999). These texts are collected in A. Krebs (Ed.), *Gleichheit oder Gerechtigkeit, Texte zur neuen Egalitarismuskritik* (2000).

⁸ G. Orwell, *Homage to Catalonia* (1938).

⁹ I am taking into account only the moderate version of Egalitarianism mentioned by D. Parfit, *Equality or Priority?*, *The Lindley Lectures*, University of Kansas (1995). The radical version – according to which any inequality is an evil in itself, even when it would improve everyone's overall condition – does not merit serious consideration.

¹⁰ H. Frankfurt, *Equality as a Moral Ideal*, 98 *Ethics* 21-43, at 37 (1987).

¹¹ D. Parfit, *Equality or Priority?*, *The Lindley Lectures*, University of Kansas (1995).

important to lead a decent life, i.e. that they have enough to eat, a roof over their heads, clothes on their backs, an elementary education, access to medical treatment and live in a natural environment conducive to good health.¹² The list of such requirements can become considerably long.

Admittedly, Rawls's thoughts about 'primary goods' reflect the notion of a 'set' of basic supplies, which the primary institutions of society are to guarantee in order to assure stability ('for the good reasons'). But, even though these goods are defined (the list includes rights, freedoms, opportunities, salary and wealth, along with the social foundations of self-respect), the lowest level of satisfaction of needs is oriented towards the most disadvantaged members of a society. Hence, the right of the under-privileged to a greater share of basic goods is not absolute, but relative to their position on the social scale. The concept of a minimal standard, on the other hand, implies no such comparison. These standards determine the order in which people are to be helped.¹³

Thus, it is clear that the principle adopted to support a theory of justice has concrete consequences for the realization of the theory. Harry Frankfurt writes that "situations involving inequality [are] morally problematic only to the extent that they violate the ideal of sufficiency."¹⁴ Consequently, justice demands that everyone be guaranteed a minimal standard. Keeping this in mind, the poorest people do not have a unique claim to assistance because they have less than others, but rather because they do not have enough to live a decent life. Involuntary destitution is an evil in itself. At the international level, this viewpoint calls for an effective assistance pact, the goal of which would be to eliminate squalor in the world.

But, on the other hand, if the principle of justice is developed on the basis of this principle of equality, then it implies the task of organizing the structure of social institutions in such a way that everyone has equal access to those commodities necessary for survival. The goal of such an exercise of law – as well as the means it would call for – differs from that of an effective assistance pact. A just political and social system would aim to create a general state of social co-operation 'for the right reasons.' This means that the justified claims of participants in social co-operation would be fulfilled to the extent that the fundamental principles that govern the distribution of goods are such as would have been chosen in a 'fair' selection process. 'Fairness' here means that the interests and freedom of all participants is taken into consideration in agreement to the rules of the governing social organization. Thus, the participants would not be content with merely a guarantee of a minimal standard of subsistence, but would evaluate political and social institutions according to whether they offer everyone equal access to basic goods. On a global scale, this means that the practice of global justice could not settle for the exercise of a duty of assistance. Fundamental egalitarian international structures would have to be created as an extension of those structures that exist within individual states.

¹² A. Krebs, (Ed.), *Gleichheit oder Gerechtigkeit, Texte zur neuen Egalitarismuskritik* 31 (2000).

¹³ *Id.*, at 19.

¹⁴ H. Frankfurt, *Equality as a Moral Ideal*, 98 *Ethics* 21-43, at 37 (1987).

C. Rawls: Non-Egalitarianism on a Global Scale

Rawls' theory of justice reflects precisely the aforementioned tension between the two fundamental principles of distribution – the egalitarian and the non-egalitarian. It is well known that Rawls refuses to apply the egalitarian premises of a theory of distributive justice to international relations. International institutions are not designed to create distributive justice between people. It is not among the goals of the normative principles of international law that the enormous differences between the gross domestic products of rich and poor countries be levelled out. Nor do these principles seek to correct the natural inequalities that endow some states with immense resources and deprive others of any financial or natural assets at all. Moreover, they do not even envision any regulation of the distribution of wealth, that would guarantee the poor an acceptable life. What drives Rawls to such diffidence?

To put it briefly, the upshot is that Rawls constructed his theory of international relations upon two premises: the first is to be found in the notion of the self-sufficiency of societies, the second in the idea that the principle of economic equality between societies is less cogent than the principle of equality between individuals. Individuals left to themselves are in a situation of defencelessness that simply does not apply to peoples or states. Therefore, they must co-operate with others in order to survive, whereas states are already organized in such a way that they enjoy a certain minimal autonomy – that is their *raison d'être*. Hence, the imperatives of justice which provide the basis of a just society cannot be applied in working out a comprehensive body of legislation to govern the co-operation among, and coexistence of societies. In the context of international relations, the difference principle can be applied, according to which any inequality in the distribution of co-operative goods benefits everyone, especially the disadvantaged.

To summarize: according to Rawls, there are several reasons why it would not be sensible to assume the principle of just global distribution:

- 1) It would contradict the basic liberal principle of tolerance to assume that “all persons must have the same civil rights in a constitutional democracy.”¹⁵
- 2) It would place an unnecessarily strong burden upon the preservation of relations between states: wealth is not indispensable for the creation of respectable political institutions.
- 3) In the long run, it would lead to relations of dependency. One of the primary tasks of justice is to help political communities achieve autonomy at an international level.
- 4) It could produce unjust consequences by penalizing certain economic decisions. Countries that increase their wealth by industrialization or by significantly decreasing their expenditure would be punished by the redistribution of wealth, whereas countries that undertake no financial exertions would benefit.

¹⁵ J. Rawls, *The Law of Peoples* 82 (1999).

- 5) Finally – an objection that is not normative but empirical – the demands of justice are intertwined with the reciprocity of the benefits that individuals derive from mutual co-operation. Hence, the obligation to do justice ends where this co-operation is interrupted. According to Rawls, countries do not engage in co-operative partnerships akin to that characterizing the relations within states.

Thus, we see that John Rawls espouses, in his theory of international relations, a position that is not far removed from the notion of a minimal standard as envisioned by the non-egalitarian conception of justice. While just global distribution would remain persistently dependent upon the institutions responsible for distributing basic goods, the duty of assistance would be limited by a “cut-off point”.¹⁶

Such a duty of assistance would, however, depart from the ideal of satisfying basic needs, since it establishes not a subsistence threshold, but a political one. What disadvantaged societies need, in Rawls’s view, is to be assisted at certain points in creating suitable political institutions and, thereby, joining the international community. Thus, the assistance pact is not intended to decrease the differences in gross domestic product between rich and poor countries by adjusting the level of affluence in disadvantaged societies. Paradoxically – and contrary to appearances – it stops short of assuring citizens of the neediest societies the minimal income requisite for a relatively decent life. In fact, not all – but only well-ordered or ‘respectable’ – societies would be suitable benefactors of subsidies from the international community. To offer humanitarian assistance to a society with a corrupt or despotic political regime would amount to a tacit support of injustice. Clearly, Rawls’s position lags well behind egalitarian, as well as non-egalitarian ambitions. Satisfying everyone’s minimal basic needs simply has no place on the agenda of his assistance pact. This is regrettable, because his theory *thereby* leaves a large number of wanting individuals to their fates, and collectively punishes all those who are undeservedly subjected to totalitarian regimes. In fact, those people who both live below the poverty line and are citizens of these authoritarian regimes are doubly punished.

Thus, it is not surprising that one encounters arguments at the level of international relations that were originally applied in non-egalitarian criticism to interpersonal relations ‘within individual states.’ They can be summarized as follows:¹⁷

- Equality has no intrinsically moral, but only derived value.

¹⁶ Rawls, *supra* note 15, at 119. “The question to ask about it is whether the principle has a target and a cut-off point. The duty of assistance has both: it seeks to raise the world’s poor until they are either free and equal citizens of a reasonably liberal society or members of a decent hierarchical society. That is its target. It also has by design a cut-off point, since for each burdened society the principle ceases to apply once the target is reached” (*id.*).

¹⁷ A. Krebs (Ed.), *Gleichheit oder Gerechtigkeit, Texte zur neuen Egalitarismuskritik* (2000).

- Affluence is not a necessary condition for the realization of a just society. Inequality in the distribution of natural resources does not demand compensation.
- The egalitarian principle of redistribution is not applicable world-wide; such a broad application would not reflect the complexity of the content and extension of the concept ‘justice.’
- The egalitarian principle of redistribution penalizes those (individuals or societies) whose wealth is the result of productivity and economic efficiency. Thus, these principles frequently lead to wastefulness.

D. A Minimal Standard

For non-egalitarians, the satisfaction of a minimal standard does not presuppose participation in any particular form of co-operation. The demand it imposes is universal in nature: it seeks to enable *everyone* to obtain the basic conditions necessary to live a decent life.¹⁸ Hence, the basic principle of a sufficient minimal standard could, in fact, lead to a global re-allocation of resources in the interests of the needy, as long as the re-allocation increases the total number of people attaining this minimal standard. But non-egalitarians reject the notion of such a re-allocation resulting from the intention to achieve an equal distribution of basic necessities.

As non-egalitarians see it, the distribution of goods is unjust if not all people possess sufficient commodities. Inequality for them is not morally significant if it does not endanger anyone’s supply of basic wants. It becomes relevant only when it manifests itself in the inadequacy of some people’s provisions.

How do we delineate the level of subsistence? There are various contextual restrictions that need to be taken into consideration.¹⁹ I cannot go into great detail here, but shall make the following remarks:

- The idea of a minimal standard rests upon a substantialist and universalist conception of the necessary wants that make up what one calls ‘the quality of life’. Despite the variety of social and cultural needs, this conception assumes that a core of material and immaterial goods – the scope of which depends upon specific conceptions – are necessary for anyone to unfold his/her personality. This core may contain quite a long list of goods, such as, for example, in the case of Martha Nussbaum, who espouses a ‘think

¹⁸ “When it is more important to help one person than another because the former is more in need, then it is irrelevant whether they belong to the same society or are even aware of each other. The greater urgency to support the one person is not dependent upon her relationship to other people, but upon her absolutely worse standing”. D. Parfit, *Equality or Priority?*, The Lindley Lectures, University of Kansas (1995); in German in A. Krebs (Ed.), *Gleichheit oder Gerechtigkeit, Texte zur neuen Egalitarismuskritik* 81-106, at 97 (2000).

¹⁹ Cf. M. Nussbaum & A. Sen (Eds.), *The Quality of Life* (1993).

conception' of the good life as a basis for an intercultural ethical-political conception.²⁰

- The domain of the exercise of justice includes everyone, irrespective of nationality. With respect to the definition and preservation of standards, the citizens of every country are *normatively* considered equal. This absolute access is, however, *de facto* compatible with a certain relativism of empirical variables, which reflect the standard of living in a particular country.²¹
- The subsistence-oriented conception of just distribution is subsidiary: first and foremost, the individual states are obliged to guarantee their citizens minimal conditions of subsistence. Only when political and economic conditions do not enable every citizen to provide sufficiently for himself/herself must external distributive agencies offer their help.²²

One may raise the following critical objections:

- The objection may be raised that a weak conception of the good, that which is limited to the necessary conditions for subsistence, is insufficient. What use is it to the poor to be supplied on long-term basis with food from rich countries, if world markets are persistently closed to them and international regulations give priority to the rich?
- A second possible objection is that a strong conception of the good may make far more considerable demands on political and social institutions than a liberal egalitarian conception of good would make on these bodies.²³ Hence, the question arises as to whether these demands can be met at the global level. What global agencies would be commissioned to fulfil these demands? To what extent could – or should – they intervene in the case of inadequate social and political institutions in individual countries? It may be that the Aristotelian approach – involving a strong theory of the good – can be raised in defense against the objection of paternalism.²⁴ But such an approach will not be able to ignore the far-reaching consequences that strongly interventionist global politics have within the domestic sphere, should the chosen criteria be guaranteed.²⁵

²⁰ M.C. Nussbaum, *Aristotelian Social Democracy*, in R.B. Douglas, G. Mara & H. Richardson (Eds.), *Liberalism and the Good* 203-252, at pp? (1990).

²¹ A. Sen, *Poor, Relatively Speaking*, in *Resources, Values and Development* 328-329 (1984). "Even under an absolutist approach, the poverty line will be a function of some variable, and there is no a priori reason why these variables might not change over time." Cf. also Martha Nussbaum's distinction between plural and local specification: M.C. Nussbaum, *Aristotelian Social Democracy*, in R.B. Douglas, G. Mara & H. Richardson (Eds.), *Liberalism and the Good* 203-252 (1990).

²² W. Kersting, *Kritik der Gleichheit. Über die Grenzen der Gerechtigkeit und der Moral* 98 (2002).

²³ Cf. Nussbaum, *supra* note 21.

²⁴ *Id.*

²⁵ Nussbaum admits this and observes that the Aristotelian approach cannot work "without a strong intervention from the political side" (Nussbaum, *supra* note 21, at 78 (1990)). "Freedom of choice is thoroughly compatible with the kind of political reflection about the good and the kind

E. A Principle of Equality for Global Justice

Egalitarian theorists are in agreement with the advocates of the substantialist theory of good insofar as they regard the right to subsistence as more fundamental than civil and political rights, since it is often a basic precondition for the realization of these other rights.²⁶ Rawls, they argue, is wrong to think that corrupt or tyrannical political structures are the primary cause of the conflicts in the world and of the enormous inequality among countries.²⁷ Corruption, repressive regimes, and bloody internal conflicts cannot be explained merely by referring to failed political structures. To claim that would be to ignore the significance of the mutual dependency of countries. Certain corrupt administrations are only able to remain in power because they are supported by other governments. Indeed, the poorer a country is, the more completely it is exposed to pressure from multinational corporations and other governments – and is all the more susceptible to giving in.²⁸ Guaranteeing every individual a minimal living standard is simply not enough if the goal is to secure an increase of global justice, even if such a guarantee would undoubtedly constitute progress beyond the current situation. Rather, the basic structure of societies and the communities of states must be reformed. Presently, global economic structures are shaped by agreements and contracts concerning trade, investment, environmental protection, the use of natural resources, etc. These agreements and contracts are negotiated, for the most part, by wealthy countries and serve their interests. Unequal distribution of wealth among countries leads to unequal distribution of power. The injustice is that the unequal distribution of natural resources among countries puts some countries in control of the manner in which the distributive regulations for goods and services at the level of international trade are administered.

I shall summarize before proceeding further: an assistance pact is a necessary, but not a sufficient condition for the realization of global justice. As long as the procedural rules for global institutions – along with the significant consequences they have for the independence of the countries subject to them – do not *equally* reflect the interests of all affected countries, there is little chance for an improvement in the condition of poor countries.²⁹

of intrusion into laissez-faire politics that the Aristotelian approach involves – indeed, it requires both” (*id.*, at 78).

²⁶ H. Shue, *Basic Rights. Subsistence, Affluence and U.S. Foreign Policy* (1980).

²⁷ J. Rawls, *The Law of Peoples* 108 (1999).

²⁸ T. Pogge, *A Global Resources Dividend*, in D. A. Crocker & T. Linden (Eds.), *Ethics of Consumption: The Good Life, Justice, and Global Stewardship* (1998); T. Pogge, (Ed.), *Global Justice* (2001); T. Pogge, *World Poverty and Human Rights. Cosmopolitan Responsibilities and Reforms* (2002).

²⁹ T. Pogge, *World Poverty and Human Rights. Cosmopolitan Responsibilities and Reforms* 23 (2002): “We must stop thinking about world poverty in terms of helping the poor. The poor do need help, of course. But they need help only because of the terrible injustices they are being subjected to. We should not, then, think of our individual donations and of possible

It must be emphasized that it is less a *result* than a *rule* of distribution that stands at the core of a theory of distributive justice. What counts is the effect of regulation upon the production and distribution of the goods that are to be distributed. In other words, the system of rules must itself be evaluated according to the opportunities it offers those who are subject to it – especially those who are the most disadvantaged. Kersting’s caricature of the global theory of distributive justice – as a gigantic distributive apparatus, beholden to a cosmopolitan despotism which degrades the members of privileged economies to “productive slaves in a globally impersonal distributive arrangement” – is false.³⁰ She assumes that the goal of a theory of global justice must be materialist egalitarianism, whether in terms of the possession of goods or of well-being “in the sense of an egalitarian ideal of material endowment.”³¹ Admittedly, some cosmopolitans do indeed argue – on the basis of the mutual dependency of countries upon each other – for a massive re-allocation of the profits of co-operation; they would also like – on the basis of the principle of compensation – to redistribute the profits made from exploiting natural resources.³² Since possession of natural resources from the perspective of the egalitarian theory is an arbitrary (i.e. unearned) source of wealth that privileges its owners, it would only be just for the countries possessing and consuming the most natural resources to compensate other countries via a transfer of funds. According to the ideal of global contractualism, the transfer would have to take place immediately upon incurrence in the form of a tax paid on an individual basis by the rich to the poor.³³ Therefore, it is no wonder that the cosmopolitan position is met with enormous opposition on the part of its critics. But it is not a necessary component of an egalitarian theory. An equal distribution of goods need not be an end in itself. According to a different conception of distributive justice – like that of Thomas Pogge – what “is to be evaluated [is] not a distribution, but a system of rules and institutions, i.e. an economic order ...”³⁴ The system of rules must be evaluated, not only on the basis of data concerning the distribution it tends to bring forth, but also in view of the kind of causality “through which this system produces particular goods and burdens for its participants.”³⁵ This point of view deflects the evaluation from the product of distribution to the responsibility of agents for the *rules* of distribution. At this level, the principle of equality takes on an essential and indispensable function. The appropriate notion of equality in this context does not refer as much to the

institutionalized poverty eradication initiatives [...] as helping the poor, but as protecting them from the effects of global rules whose injustice benefits us and is our responsibility.”

³⁰ W. Kersting, *Recht, Gerechtigkeit und demokratische Tugend* 342 (1997).

³¹ W. Kersting, *Kritik der Gleichheit. Über die Grenzen der Gerechtigkeit und der Moral* 99, 100 (2002).

³² C. Beitz, *Political Theory and International Relations* 138-141 (1979).

³³ The demands of cosmopolitanism would, I suggest, be best satisfied in a world in which rich people, wherever they lived, would be taxed for the benefit of poor people, wherever they lived.

³⁴ T. Pogge, *Globale Verteilungsgerechtigkeit*, in S. Gosepath & J.-C. Merle (Eds.), *Weltrepublik. Globalisierung und Demokratie* 221 (2002).

³⁵ *Id.*

effects of distribution as to the establishment of institutional procedural principles. The conception of justice at issue here is essentially procedural.

In conclusion, I would like to make a plea – against all non-egalitarian positions – in favour of the procedural conception of justice. Equality is intrinsically connected to distributive justice, since the demand for justice in the distribution of political and social goods is founded upon the demand for equality. The justificatory standards for justice are identical to the justificatory standards for moral norms in general: both appeal to impartial regulation and universal application. Rights and duties can only be characterized as just when the individual entitlements or constraints which they entail are justified by impartial and universal norms: impartial, because they must not be the product of egoistic calculation; universal, because they must be uniformly applicable in all comparable cases. Since one depends on the principle of individual autonomy and upon enjoying the same respect that one owes to others, it is morally repugnant to impose restrictions upon someone's freedom based on anything but good reasons. Of course, political institutions – insofar as they grant rights, impose duties and penalize infractions – are inextricably bound to impose such restrictions upon freedom.³⁶ Hence, only those distributive norms that are equally acceptable to all affected parties can be regarded as right. This does not mean that no exceptions could be made in applying the rules. But every exception would demand a justification that would have to be acceptable to all the people or institutions involved. Everyone has a moral right to object to norms or deeds that are expected of them without justification or reason given.³⁷ Thus, it would be unjust if a general rule were not applied to everyone uniformly and with convincing reasons, i.e. if there were no acceptable justification of the unequal treatment. Thus, procedural equality is itself raised to the status of a criterion of justice, since each individual has a right to be taken into equal consideration in the justification of the rules governing the distribution of basic goods.

Clearly, the principle of equality demands not only the exercise of a minimal standard, but its just application – and this for altogether different reasons.³⁸ Global institutions are not only unjust because a significant number of people live below the poverty line and have practically no hope of ever improving their

³⁶ A strong systematic presentation of this argumentation can be found in S. Gosepath, *Zu Begründungen sozialer Menschenrechte*, in S. Gosepath & G. Lohmann (Eds.), *Philosophie der Menschenrechte* 146-187 (1998); S. Gosepath, *Über den Zusammenhang von Gerechtigkeit und Gleichheit*, in L. Wingert & K. Günther (Eds.), *Die Öffentlichkeit der Vernunft und die Vernunft der Öffentlichkeit*. Festschrift für Jürgen Habermas, 403-433 (2001). See also E. Tugendhat, *Gleichheit und Universalität in der Moral*, in M. Willaschek, (Ed.), *Moralbegründung und Gerechtigkeit* (1997; 1998; 2001).

³⁷ S. Gosepath, *Zu Begründungen sozialer Menschenrechte*, in S. Gosepath & G. Lohmann (Eds.), *Philosophie der Menschenrechte* 146-187, at 150 (1998).

³⁸ I do not mean to suggest that some substantialist theories – like the one advocated by M. Nussbaum – place lighter demands upon socio-political institutions with respect to the distribution of material goods. Thomas Pogge, for example, satisfies himself with a minimal list of basic goods that is shorter than Nussbaum's catalogue of demands (see T. Pogge, *World Poverty and Human Rights. Cosmopolitan Responsibilities and Reforms* 37 *et seq.* (2002).

situation. They are also unjust because the norms with which they operate (rights and entitlements which they grant; burdens which they impose) support a global order that perpetuates the impoverishment of a large portion of its population not in a position to oppose them. Wealthy countries are little concerned about whether the tariffs imposed upon goods from poor countries, prevailing patent regulations, the international right to possess natural resources, etc., respect the interests of all the affected parties, or whether they serve first and foremost the interests of the citizens of only certain states.

There can be no question that it would be a giant leap for international politics to construct a legislative and executive apparatus that assured every citizen of the world the minimum requirements to lead a life worthy of a human being. But neither these measures nor an assistance pact – which, as we have seen, falls short of even this modest goal – would be sufficient to reform an unjust international system.

Translation: John Michael

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