

The Unity of Mankind and the Plurality of States

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I. Introduction

The unity of mankind is a moral idea. It holds that all human individuals are intrinsically valuable and, that, they are to be treated accordingly. The properties that invest a human individual with intrinsic value comprise the capacity of understanding and of being moved by the reasons for action provided by the very fact that humans are intrinsically valuable. Thus, mankind is a group the members of which are at the same time subjects and objects of moral concern. Call such a group a moral community. The principle of the unity of mankind holds that humanity is a moral community in this sense.

This claim has momentous political consequences, some of which are widely recognized in the contemporary world. For example, it is unanimously agreed to imply that governments have to treat their citizens with equal concern. But the modern world system consists of a plurality of states, and from the point of view of each state, the inhabitants of the Globe divide into two distinct groups: its citizens and the rest. While governments are supposed to treat their citizens equally, they treat citizens and non-citizens very differently. If the unity of mankind requires impartiality among citizens, does it nevertheless permit partiality between citizens and non-citizens? Does it allow for international state regimes where equal treatment breaks down at the official boundaries?

A positive answer can be reached in two very different ways. It could be established by way of showing that the unity of mankind applies to institutions with the characteristics of a state but not to other institutional settings, particularly not those that cross the boundaries of a state. Or, alternatively, one could show that the unity of mankind applies to all institutional levels but, that, the equal moral concern due to all human individuals has different implications at different levels. Cosmopolitanism is the doctrine according to which the unity of mankind applies to all levels. According to it, the entire system of political institutions has to be assessed against the claim that

human individuals count and count equally. If the division of the world into a plurality of states is acceptable, this is because it passes the test of equal moral concern.

Classical or world-state cosmopolitanism maintained that it cannot pass the test.¹ Enlightenment cosmopolitans, Kant in particular, took the position that it can.²

For Kant, any international state system is cosmopolitan provided that the rights (invariably of a negative character) of all individuals are respected in any situations in which they could be involved. In a Kantian cosmopolitan regime none's rights are left unprotected either at home, by the constitution of his state, or in a country that he happens to visit; nor does the community of states permit wars of aggression that could lead to the most terrible rights-violations.

Kant's view of a just cosmopolitan order was insensitive to separate distributive concerns. He held that distributive justice obtains if and only if rightfully acquired property is adequately protected and voluntary contracts are properly enforced, and this conception does not leave room for distributive requirements, either at the domestic or at the global level, other than those involved by the protection of private property and the enforcement of voluntary contracts.

Not until John Rawls's *A Theory of Justice* did liberal political theory depart from this tradition. Rawls who was first liberal to argue in a systematic way for the thesis that no property and contract regime can be justified unless it meets constraints of basic distributive justice. Rawls proposed the famous difference principle for a distributive standard against which alternative schemes of domestic social cooperation are to be assessed. But when he engaged in generalizing his theory from a politically organized domestic society to what he is calling the society of peoples, he refused to extend the difference principle to this higher level. Rather, he suggested that there is a division of political responsibilities between domestic societies and the society of peoples: the former would bear responsibility for the justice in the distribution of advantages and disadvantages among individuals, while the latter would be responsible for assisting domestic societies, if need be, to become "full and self-standing members" of the community of well-ordered societies.³

This suggestion entails two separate ideas. First, it includes a two-level conception of the apportionment of institutional responsibilities where those of a domestic society reach out to particular individuals while the responsibilities of the society of peoples stop at the level of entire

societies.⁴ Second, it interprets the two-level division as involving a responsibility for distributive justice at the level of domestic societies while at the higher level involving only duties of assistance (of varying stringency “depending on the severity of the case”).⁵

Post-Rawlsian liberal cosmopolitans made powerful objections to both parts of this conception. Thomas Pogge argued in the following manner against the second part.⁶ The increasing inequalities between the economically rich and poor countries are not due to domestic processes going on independently of each other. To a very large extent, Pogge maintains, inequalities are explained by the way the rich and the poor interact within an expanding network of market institutions. In so far as this is the case, the market system is unjust because it displaces the costs of the improvement in the position of the better-off onto others who are badly-off anyway. It follows that poverty, malnutrition and other deprivations in the badly-off countries do not count merely as reasons for assistance. Citizens of the well-to-do countries derive advantages from the workings of an unjust system, and they contribute to maintain the system by their ongoing participation in it. That goes against the “negative duty not to cooperate in the imposition of unjust practices”. It is this negative duty that binds us “to promote feasible reforms of this scheme” and to comply with the reformed institutions even if compliance involves serious burdens.⁷ If this argument is correct, then not even a two-level conception can limit the responsibilities for justice to the level of domestic societies.

Sharp criticism has been addressed to the very organization of responsibilities into a two-level structure. Most notably, Charles Beitz made arguments to the effect that the two-level division of responsibilities envisioned by Rawls is in conflict with the basic idea of cosmopolitanism. Cosmopolitanism assesses the global institutions against the principles of “individualist moral egalitarianism of the Enlightenment”, Beitz reminds us.⁸ For it, he continues, “choices about what policies we should prefer, or what institutions we should establish, should be based on an impartial consideration of the claims of each person who would be affected”.⁹ This view “aims to identify principles that are acceptable when each *person’s* prospects, rather than the prospects of each society or people are taken fairly into account”.¹⁰ Now the two-level conception proposed by Rawls amounts to a blatant denial that individuals and only individuals have ultimate moral standing,

according to Beitz, because this conception accords to “domestic-level societies ... an independent ethical status”.¹¹

Beitz concludes that the restriction of the scope of the difference principle to domestic societies is untenable. If the difference principle is the correct distributive principle against which political institutions are to be assessed, then a suitable cosmopolitan theory must rely on some sort of a global difference principle.¹²

There is some ambiguity in Beitz’s treatment of the two-level conception. His general tenor is that the very idea of a moral division of labor between the level of states and the supra-state level is unacceptable, either because it necessarily accords an independent ethical status to domestic-level societies, or if it does not, then for some other, unspecified reason. Exceptionally, however, Beitz allows for the possibility that a two-level conception might be cosmopolitan in the requisite sense.¹³

This paper follows the track of those who argue that distributive justice does not stop at the boundaries of domestic societies. But I will argue that, in a world divided into a plurality of states, a two- or multiple-level theory is likely to best to account for the requirements of cosmopolitan distributive justice. The unity of mankind and moral individualism to which it is intimately associated demand that the theory takes the good of individual persons as an *ultimate* basis for the assessment of institutions. They do not require that at each level of the justification, direct appeal to individual interests, disaggregated from the interests of larger groups be made. In principle, moral individualism and the unity of mankind can be satisfied by a theory that accords *derivative* moral status to states and the domestic societies.

Sections II and III will examine the way the political organization of a domestic society by means of a state affects the responsibilities within a particular citizenry. I will try to establish the contention that a state that treats all its citizens with equal concern complies with and enforces a principle that I will call, using a term originating with social anthropology, *generalized reciprocity*. Section IV will show that generalized reciprocity is productive of a merger of the many difference principles pertaining to the many overlapping institutions at work within a domestic society into one all-encompassing difference principle. Section V will address the external responsibilities of justice of a state. First, it will try to show that states have obligations of distributive nature beyond

their borders. Second, however, it will try to show that those obligations do not involve generalized reciprocity. Section VI will apply the findings of the previous Sections to the global arena, and it will offer some points, in the light of these findings, for interpreting Rawls.

II. The State, the Peculiar Institution

Let me begin with a simple example. A small community is living by a river, getting their food from fishing. Upstream, a manufacturer builds a factory that draws water from the river and drains back sewage. At some critical level of concentration, the toxic materials in the sewage make the fish from the river unusable for consumption. In fact, the water pollution reaches the critical level. Clearly, the fishermen have the right that they are being paid damages and, that, the toxic output be limited. This is a right held against the industrialist who caused harm to them. But they also have a right against the state that it enforces their right not to be harmed.

The state might do various things to discharge its duty involved by that right: it can prohibit the polluting activities, or it can impose a fine on toxic output, and so on. Suppose it fails to take any measures, no matter how strongly the fishermen insist on their complaints. If so, then the latter can sue not only the industrialist but the state itself for damages. The government's reckless disregard for its duty to stop the industrialist makes it co-responsible for the ongoing occurrence of harm and, therefore, liable to pay compensation.

But the state is not an independent owner of assets and income. Its economic sources are the national wealth and the taxpayers' money. It is not the government that bears the burden of compensating the fishermen but the citizenry. Each taxpayer has to contribute his or her part to the reparations. Upon granting some attention to this fact, we might find it bizarre or at least in need of an explanation. After all, the citizenry itself cannot be said to have treated the fishermen's claim with reckless disregard *directly*. If they have mishandled the fishermen, it was through the failure *of their state* to act. But, then, either they do bear responsibility for the conduct of their state or they do not. If they do not, then they cannot have a duty to contribute to the reparations. If they do, then

the question is, why. One possible answer could be to assume that they all are involved somehow with the causation of harm, and so the state's failure to interfere amounted to a failure to execute a shared duty of them all.

Economic interdependencies might explain this assumption. The industrialist is not self-sufficient: he buys the input for his factory and sells its output on the market. Because he does not apply screeners nor chemical procedures to purify the sewage, nor does he pay to the fishermen for the lost haul, he can afford to pay a higher price to his suppliers and to ask for a lower price from his customers. These people, then, take advantage of the fact that a fraction of the costs of production has been shifted onto the fishermen.

There is no reason why all members of the society were to be either suppliers or buyers of the unfair industrialist. But one can continue. The industrialist, his suppliers and customers, all earn some surplus. Perhaps they are all city-dwellers who tend to engage in market transactions more frequently than villagers do. If so, the surplus siphoned off from the fishermen raises the level of the aggregate demand, and the benefits from this increase are shared by an unidentifiable group of people.

Let us admit that, ultimately, the expanding circle does not leave any member of the society outside of its scope: the class of those who collectively owe with a duty of compensation to the fishermen coincides with the entire class of their fellow citizens.¹⁴ This would suggest an explanation why the whole citizenry is supposed to bear the costs of redressing the fishermen's grievances. But this is an implausible explanation.

First, it is not obvious that as market agents, all citizens profit from the injustice done to the fishermen. Some might be among the losers, others might remain unaffected. For example, the unfair industrialist might succeed displace his competitors who might fire a large number of their employees as a result. Those who remain unemployed certainly will belong to the losers. Others might find new job, but perhaps at a lower wage rate, or at a greater distance from their home, or more exacting. Even if as consumers, they might share the benefits of lower prices, the overall impact of the changes might be zero or negative in their case. And on and on.

Secondly, the state is not bound to intervene to protect the fishermen because all the rest wronged them in some way or other. It is bound to intervene because they have been wronged, period. It would be weird to assume either that the state has no duty to enforce an individual's rights if the wider society does not possibly derive any advantage from the wrong or, that, even if the state has a duty to interfere in such cases, too, the citizens have no duty to take up the costs of the interference.

Thirdly, sometimes the state owes with compensation to individuals not for failing to act as duty requires but for acting in violation of a duty, as when policemen mistreat a suspect under interrogation. There is no original harm done by private persons at all in the background of the duty to compensate the victim in such cases. But if damages are paid to the victim, there is none else to assume the costs but the taxpayers.

So we have good reasons to abandon the idea that a citizenry bears a collective duty to take up part of the burdens of preventing or rectifying injustices if and only if they have their part, as private persons, in causing the injustice in the first place. The class of those burdened by civic duties might be *over-inclusive* with respect to the class involved with the facts that give rise to the duty.¹⁵ If a citizenry as a whole ought to assume the burdens for their state's maintaining justice within its jurisdiction, the explanation must be related to the political relationships between individuals in their capacity as citizens rather than to their non-political relationships as private persons (as economic agents, etc.).

In order to understand the relationships responsible for the phenomena of over-inclusiveness in assigning the burdens of justice within a state, we have to address first the phenomenon of the state itself. A state is an organized set of institutions that creates and enforces a legal system over a territorial jurisdiction. In so doing, it provides the society that inhabits its territory with unique, ultimate, and comprehensive political ordering. Political ordering is ordering by institutions with an authority to make decisions that bind everybody to whom those decisions apply. It is unique if the political organization has no competitor claiming authority over the same individuals and with respect to the same activities, or the same aspects of activities, or the same states of affairs. It is ultimate if the organization includes, for each issue that falls within its competence, one and only

one highest instance that settles the issue beyond appeal. And it is comprehensive if the organization is capable of dealing with any possible issue that might come up in the society in question. (Comprehensiveness does not mean that a political organization does in fact interfere with all the contested issues. Some interferences are morally inappropriate and, therefore, not permitted. In other cases, the cost of the interference would be too high relative to the significance of the issue; in such cases it is not prudent for the higher-order institutions to interfere. But an organization capable of providing a society with comprehensive political ordering has the means to extend its regulatory functions to any possible issues.)

I will try to show that the phenomenon of over-inclusiveness as described above finds its explanation in these characteristics of states. Other important properties are either irrelevant for our problem or are entailed in this characterization. For example, no state can do without a bureaucratically organized apparatus of officials. But reliance on a bureaucracy is neither a conceptual condition for a system of political institutions to be a state, nor a condition that would be necessary for the explanation we are after.

Another often mentioned property of states is that they monopolize the legitimate use of violence. Now the claim of monopoly of the legitimate use of force has two components. Its primary component consists in the claim to decide, ultimately, who is allowed to use force, when, against whom, and in what ways; while the secondary component consisting in a substantive decision to the effect that (setting aside some limiting cases such as use of force in self-defense) the authorization to use force is reserved for the state's coercive apparatuses. Now the primary component is implied by the conceptual characterization of states given above. An institutional system lacking the monopoly to settle the issues of violence and coercion within its jurisdiction would fail to satisfy the general conditions of comprehensiveness, uniqueness and ultimacy of the authority states claim for themselves and, therefore, would not count as a state. One could add that the issue of the use of violence and coercion is not one of the many that a state is supposed to regulate with unique and ultimate authority. It is probably the main issue up for political ordering both from the point of view of the society in need of it and from the point of view of the state providing it. From the point of view of society, it is a key issue because unless the use of violence

is regulated, the life in society tends to be “solitary, nasty, brutish, and short”. And it is a key issue from the point of view of the state as well, because an institutional system that has no ultimate say on the use of force cannot have but very limited authority in other respects either. In sum, the authority to take the ultimate decisions on the use of force is entailed by the concept of a state, and it belongs to the core of that concept.

But the secondary component of the monopoly of force is not conceptually linked to the idea of a state. An institutional system may entrust the execution of the decisions concerning the use of force to private agencies and still be a state. There are considerations of an empirical nature that weigh heavily against privatising more than small fractions of the use of force in the service of government. Further empirical considerations weigh heavily against complete privatisation of the provision of other public goods such as health care, welfare, and education. A decent state does not totally reduce its engagements to that of regulating the conduct of private individuals and institutions. But the list of the goods that it should participate in providing and the depth to which it is desirable for it to be involved with their provision are matters that tend to vary with the change in the empirical circumstances. Not so the need in an institutional system capable of providing a society with ultimate, unique, and comprehensive political ordering.

III. Political Equality and Generalized Reciprocity

States concentrate immense powers in the hands of their officials. This concentration of powers needs to be justified. Unlike an individual human person, states are not entities with a moral standing on their own right. Their moral status is derivative, it is a function of the services they deliver to human individuals, the only units of social life having an ultimate moral standing. Thus, the justification for a state’s powers must be given in terms of what it does to human individuals by providing a society with political organization. Any justification must start by ascertaining the fact that large-scale, rapidly changing societies with a vast array of impersonal relationships cannot do without some political ordering of the type states provide. But pointing to the aggregate good it

yields to society is not sufficient to justify a state. For consider what political organization of society by way of subjecting it to a unique, ultimate, and comprehensive authority involves. It involves issuing and enforcing against non-compliance instructions that bind each individual member of the society, whether or not there is a different set of alternative instructions that would be more advantageous to her or would better fit her convictions. The unity of mankind requires that the justification appeals to each individual, separately, and that it addresses her as an equal of any other individual. A morally justifiable state must treat all its members as equals. Call this the requirement of political equality.

Political equality is an abstract idea that has to be interpreted in the light of the circumstances in which a society is politically ordered. Suppose, for example, that states are voluntary associations. In this case, any political arrangements to which everybody agreed freely under the conditions of equality and which everybody is equally free to abandon would satisfy the requirements of political equality. Not so if states are, for most of their subjects, non-voluntary organizations.

Whatever function a state should undertake, the discharging of it involves costs. If states were to be voluntary associations, they could charge a market price on their services, and make their provision dependent on payment. No service would be provided to those who do not pay at all, more extensive and higher quality services would go to those who are ready to pay more. To be sure, most of the services provided by a state are public goods that, once there are enough people ready to pay the price, everybody is able to enjoy freely. But this fact would not prevent the state from charging market prices on their services and letting go everybody who is unwilling to pay.

But states are not voluntary associations. They do not make their claim of authority conditional on promise, contract, or any other voluntary act expressing consent on the part of their subjects. The latter are supposed to be under its authority by virtue of mere residence on their territory, whether or not they have chosen to stay there. It would be utterly unfair, under such conditions, to make the provision of the state's services dependent on what an individual is able to return by way of a payment for them. Governments have to extend the same services to all, whatever their tax-paying capabilities.¹⁶

This entails that they treat the members of their society as beings who take mutual responsibility for each other. That responsibility cannot be of an aggregative nature: it cannot be held against the society as a whole but must run, so to speak, from individual to individual.¹⁷ In other words, if states are non-voluntarily organizations, then the unity of mankind demands that reciprocity prevails among all the members of their society. The reciprocity in work in a justifiable state is of a special type.

Commodities markets, too, presuppose a kind of reciprocity between the partners in an exchange transaction: they are supposed to reciprocate the receipt of a good or service by its agreed-upon equivalent. Reciprocity is violated if one party fails to do his part although the other has done his, or if one party exploits his bargaining advantages to reach blatantly unfair terms of exchange. No party is expected to give up anything beyond the equivalent of the other's sacrifice. Social anthropologists call this "balanced reciprocity".¹⁸ Balanced reciprocity is not the tie that is supposed to bind citizens of a state to each other.

The analogy of a mandatory insurance scheme would serve better to illuminate our problem. Consider the flow of payments and services from and to participants in a health insurance scheme. Each customer insures himself against the same set of future illnesses, and pays the same premium. But two people will not be eligible for the same coverage in the future, because they will not contract or develop the same illnesses over their life careers. The payments made by some contribute to cover the expenses of the treatment needed by others. Compare this with the case of voluntary market insurance. If a client of a health insurance company finds that, because he is not likely to get ill over the decades of his life, the balance of the premiums paid and the coverage obtained is unfavourable as compared with his options if he discontinues the insurance, he is free to do so. Not so if he participates in a mandatory insurance scheme. A kind of reciprocity is at work here, but the reciprocity of this kind does not require equal services for equal payment. It requires equal antecedent chances for obtaining the same services, should the development or contracting of an illness make one eligible to them. This is what social anthropologists call "generalized reciprocity".¹⁹ Generalized reciprocity must prevail in all the relationships in which members of a society are involved with each other as citizens rather than private persons.

To be sure, voluntary insurance schemes rely for their feasibility on the fact that most of those with a negative balance fail to withdraw. The flow of costs and benefits in such schemes is closely similar to that required by generalized reciprocity – but it is not moved by generalized reciprocity. The participants of a voluntary insurance scheme have their own expected benefit in mind, not the good the scheme brings for others. Generalized reciprocity is a side effect of self-regarding acts performed by mutually disinterested individuals within the constraints of a particular institutional framework, not a reason that either does or is expected to motivate those very choices. If the insurance scheme could work at least as efficiently as it does without effecting client-to-client transfers, there would be no moral reason to choose that type of its organization which yields generalized reciprocity as a side effect.

In the case of a state, there is a moral reason for it to maintain generalized reciprocity. A society that is politically organized by a state ought to be a *community*. The citizenry the state of which, indeed, treats its subjects according to the standards of generalized reciprocity is a community in itself, to borrow an expression from Hegel, even if its members are not motivated by the considerations of generalized reciprocity. And the citizenry whose members are properly motivated by the considerations of generalized reciprocity would qualify as a community for itself (again, in a Hegelian wording).

This view of a community is different from that developed by communitarian philosophers. It does not rely on the idea of a shared culture. It does not maintain that the principle of generalized reciprocity applies to states that provide culturally defined communities with political ordering.²⁰ Nor does it presuppose that a community or its culture would have independent moral status.²¹ This is an individualist and egalitarian conception of political community. Its claim is that states are subject to the requirements of generalized reciprocity because they cannot be justified to each and every individual person unless they treat their citizens as equals, and because individuals who did not assume their status of a citizen voluntarily are not treated as equals by the state unless generalized reciprocity obtains among them in all matters that are subject to governmental regulation.

The scope of governmental regulation, as it has been mentioned earlier, has no institutional limits: one of the virtues of states is that their power to regulate human activities and relations is comprehensive. True, governmental interference has limits of a moral character. There are a very large number of issues that a state is morally required to refrain from interfering with. It does not follow, however, that no official regulation is in place with regard to such issues. First, regulation may be needed to disable the organs of the state with respect to the protected activities or relations (as when the First Amendment of the US Constitution declares that “Congress shall make no law ... abridging the freedom of speech or the press”). Second, regulation may be needed to empower citizens to make decisive steps within the domain protected against state interference (as when the 1990 Hungarian Law on the Freedom of Religion rules that 100 people sharing a religious creed can found a church). Third, regulation of an issue within the domain of legitimate state activities may imply a need in regulating another issue originally not within that domain (I will return to this latter point in a moment). Immunity to state interference is not identical with an immunity to state regulation. What the former excludes is particular types of regulation not regulation as such. The upshot is that any issue that comes up in a society politically ordered by a state might be subject to the requirements of generalized reciprocity.

IV. Distributive Justice within a State’s Borders

Classical liberals held, and contemporary libertarians continue to maintain that in a morally appropriate political order governmental powers are limited to those of a night watchman state. Those authors who place themselves within this tradition of political thought tend to agree that a state which duly protects the rights of the individual to life, limb and property, and enforces voluntary contracts has done everything that it is required and permitted to do for distributive justice. This is because, so the argument goes, there is no question of distributive justice separate from the question, whether the ownership claims of particular individuals to particular holdings have been established through steps of acquisition and transfer that respected the rights of others. A

corollary to this claim is that the right to private property sets a hard constraint to state action, prohibiting any kind of interference that purports to reach any desired pattern of distribution.

But the assumption that there are no concerns of distributive justice separate from the concerns of individual rights and satisfaction of valid contracts is implausible. Consider the protection of property first.

Libertarians endorse the principle of the unity of mankind: they agree that human beings are proper objects of moral concern and, that, they matter equally. They also tend to agree that what ultimately matters is not that humans experience as little pain and as much pleasure as possible but that they can lead their own lives, according to their own conception of what is a good life for them. Now the pursuit of a conception of the good involves a satisfaction of needs and desires, and it is a trivial fact that needs and desires depend, for their satisfaction, on external resources. This dependence makes a human person unable to make shorter- or longer-run plans unless she has resources under her control, that control having two aspects: availability of the resource within her reach and assurance that others will not interfere with its use. Libertarians hold, and up to this point there is agreement between them and contemporary liberals, that the value of the autonomous pursuit of a conception of the good makes the existence of ownership titles valuable, too. But because human beings matter equally, their dependence on external resources also matters equally. In other words, all human beings have an equal moral claim to the opportunity to acquire control over previously un-owned external resources. Even on this, libertarians and liberals are in agreement. What they disagree on is the way the equality of the moral claim to acquire control over resources is to be interpreted. Libertarians interpret this as an equal right to accomplish unilateral acts of acquiring property (by mixing one's labor with a free natural resource, for example) so long as these acts do not include the use of force, threats, or fraud.

Liberals would not deny the validity of such a principle of acquisition under the conditions of unlimited resources. But they object to it under the more interesting – because more realistic – assumption of scarcity. The simultaneous satisfaction of all the needs, desires, and projects of all human beings would necessitate more resources than the Earth is capable to provide. This means that acquiring control over a thing by one individual involves a sacrifice for some other

individual(s). Under such circumstances, a unilateral act of acquisition cannot put others under the duty to refrain from interfering with one's holding, liberals insist, unless it does not withdraw from the pool of free resources more than the fair share of the individual concerned. To put it differently, under the circumstances of scarcity, the requirement of refraining from the use of force, threat, or fraud is complemented by a further requirement of basic distributive justice.²²

If it is true that a morally appropriate regime of ownership must satisfy the conditions of basic distributive justice, and if, as it is commonly assumed by all but anarchists and communists, the state has among its legitimate responsibilities that of providing and enforcing a legal framework for ownership and protecting property that conforms to that framework then, by implication, the state also has for responsibility that of maintaining basic distributive justice among its members.

The same logic holds with regard to the other function, that of enforcing voluntary contracts, that classical liberals and libertarians rank with the legitimate functions of a night-watchman state. Not even a libertarian would deny that voluntariness is subject to certain conditions with distributive implications: the terms of exchange should not be determined by threat advantages; inequality in the access to information should not impact the outcome; agreements made under duress, those reached by one party using fraud are invalid, and so on. And it is generally accepted that economic transactions are unjust if one agent shifts the costs of attaining his aims unto others (his partner or a third party).

But these conditions are not only related to distribution by way of involving distributive *consequences*. They also rely, for their definition, on distributive *assumptions*. It is such kind of assumptions that decide, in the last resort, what counts as shifting the costs of attaining one's aims onto someone else. Consider the alternative between erecting a public building with or without facilities for the physically disabled. Someone speaking on behalf of the disabled might claim that if the investors are free to take the cheaper option, that allows them to displace some of the construction costs onto persons who are reduced to a wheelchair. An opponent speaking on behalf of the investors might counter that if the more costly option is enforced, some of the burdens, for a disabled, of accessing to the building is shifted, coercively, onto *his* constituency. Which of the mutually exclusive claims is valid? This question depends, for an answer, on how the initial

situation has to be assessed. Is it the case that people cannot be held morally responsible for redressing a disadvantage that is suffered by others unless its occurrence is correctly attributed to their own action or unless they voluntarily accepted benefits related to the fact of the disadvantage in question? If the answer is 'yes', then the representative of the investors is right. If the answer is 'no', then he is wrong and the disabled people's representative is right.

Thus, no less than the legal regime of ownership, the regime of economic transactions raises complex and far-reaching issues of distributive justice. If this is true, and if it is also true that the state has among its legitimate responsibilities the one of providing and enforcing a legal framework for economic transactions between property owners and protecting the interests of those who entered contractual relationships in due conformity with the law then, by implication, the state also has a responsibility for maintaining distributive justice in the transactions among its members.

In sum, the idea of a night-watchman state is an expansive one. Once it is admitted that a state has for its legitimate functions to regulate ownership and contracts, the requirement that the regime of property and of transactions it maintains conforms with the requirements of distributive justice and, therefore, regulating distribution enters the domain of legitimate functions of the state. As a consequence, in a society that is politically ordered by a state, generalized reciprocity applies to the issues of distributive justice.

Let us admit, for the sake of the argument, that the Rawlsian difference principle is the right principle of distributive justice. The difference principle holds that an institutional system is just with respect to the distribution of economic advantages and disadvantages if and only if the activities that abide by its rules do not increase inequality in the access of primary goods (for the sake of simplicity: of income and wealth) at the cost of the worst-off. In another, stronger formulation the principle demands that the increase in inequality be necessary for improving the position of the worst-off. Clearly, this principle depends, for determining its content, on the identification of the worst-off person or group of persons. And that task involves more than one of identifying the least advantaged within a given institutional system. It includes identifying the boundaries of institutional systems. Let A, B, C be income earners A earning \$50.000, B earning \$10.000, while C earning \$500 a year. If A's and B's acts are regulated by a common institutional

system I, but the rules applying to C pertain to a system distinguishable from I, then B may be the worst-off person in I, and should this be the case, then, whenever the principle condemns the distribution in I unjust, a transfer from A to B is required. But if it is appropriate to rank the rules that apply to C together with the rules that apply to A and B, then C is the worst-off person, and transfers from A to C precede transfers from A to B; moreover, transfers from B to C might be in place. Thus, institutional systems need to be properly individuated before they are assessed against the standard of the difference principle.

Individuation is a hard task, though. Each individual is likely to represent a point of intersection of many institutions: he may participate at various commodities markets, a labor market, a network of kinship, a trade union, and on and on. How should we treat these overlapping institutions? Shall we say that they are parts of the same institutional system, or perhaps it is more correct to say that they constitute separate systems? The number of intersections where two institutions might meet is variable, of course, and so is the strength of the influence they exert on each other's effects at particular points of intersection. So perhaps we are permitted to state that the more extensive the interactions between two institutions and the more intensive their mutual effects at any point of interaction, the better they are eligible to be treated as constituting one institutional system rather than two. If so, then some threshold criterion of extensiveness and intensity of institutional interactions will be needed to mark the point where two distinguishable institutions merge into one institutional system. That is a difficult issue in itself. But my point does not rely on the complexities of resolving *this* problem.

Rather, I propose to assume that it is resolved somehow and to consider a society stretching over a well defined territory and connected by a dense network of overlapping institutions. Let us focus on those institutions that have an impact on the distribution of income and wealth in this society. There are two cases where we are justified to apply one and only one all-encompassing difference principle to the whole society: when all the institutions unite into one system, or when one institution, coinciding in scope with the society, has dominant effect on economic distribution. In all other cases the society in question will be subject to a number of difference principles with varying scopes.

But let the territory of this society coincide with the jurisdiction of a state, so that two individuals who are under the hold of two separate difference principles are fellow citizens. Then, generalized reciprocity requires that the whole citizenry shares in the responsibility for the economic position of the worst-off citizen. Even if the institutional system that gives rise to his disadvantages is narrower in scope than the entire citizenry, those unjustly disadvantaged have a claim against the state that it takes care of redressing their position. Because the state claims comprehensive and ultimate authority within its domain, so that no institution is beyond its regulatory power, and because it sets and enforces, in particular, the rules for ownership and economic transaction, it has the obligation to ensure that the distribution of holdings and the processes of transaction are just. And because it demands that people who did not authorize him to issue binding instructions to them obey to those instructions nevertheless, and, moreover, it demands obedience even against one's self-interest or convictions, it has this obligation of justice towards all its citizens. In this manner, by way of uniting the members of a society into a citizenry, the state reallocates the responsibility for redressing unjust inequalities within its jurisdiction. As a last resort, the entire citizenry has to take responsibility for the burdens of correcting unjust inequalities, even if these are attributable to interactions regulated by an institution with a scope narrower than the state. For example, the state owes with unemployment benefits, poverty allowances, basic health care etc. to the destitute. Thus, in a political community, the multiple difference principles collapse into one.

This is not the same thing as when we find that, in a society, one single integrated system of markets bears alone the *causal* responsibility for economic inequalities, so that the other institutions, narrower in scope, have no role to play, and there is but one difference principle that applies to the entire society. The responsibility of the state for maintaining a structure of distribution in conformity to one all-encompassing difference principle is not causal in origin. Even if (what is most likely) the state is not the only institution affecting the distribution of income and wealth within its jurisdiction, and even if (what is quite possible) institutions with a scope narrower than its domain have a causal role in shaping distribution, the state bears *moral* responsibility for conforming its acts with an all-encompassing difference principle.

V. Distributive Justice Beyond Borders

Within a society that is politically ordered by a state the many overlapping difference principles are lumped together into one difference principle. This result is true whether or not the state in question is part of an international system of states or it is the only state on the Earth. Thus, on the assumption of a world state, we can reliably infer that no matter how many overlapping difference principles apply to the enormous number of overlapping institutional systems, these would merge into one all-encompassing global principle. But what if the world is divided into a plurality of states?

This question brings us to the heart of the question raised at the beginning of my paper. In Section I, I cited Charles Beitz claiming that a genuinely cosmopolitan theory does not admit of hierarchically arranged distributive principles but rather provides for one single global principle. Now we have the tools to discuss this claim.

My contention is that in a world divided into a plurality of states a merger of the multiplicity of difference principles into one cannot be expected. Not that the so many states would have no duties beyond borders. States owe with duties to residents of other states, and duties of distributive justice are prominent among these. But the way a state is morally indebted to residents of other states is different in important respects from the way it is bound towards its own citizenry. It is this difference that will account for the preservation of a multiplicity of difference principles above the level of a particular state.

Let me address first the positive thesis according to which a states owes with duties of distributive justice to outsiders. Earlier I discussed two issues of distributive justice: that of the baseline distribution of the access to natural resources, and the one of the distributive assumptions and consequences of economic transactions. Consider the issue of the baseline distribution. The moral considerations that apply to this issue are clearly cosmopolitan in nature. As Kant and Locke before him have recognized already, the Earth with its resources is ultimately a common possession

of mankind, and none has any privileged claim to any piece of it. This is the background assumption behind the distributive rider on any acceptable principle of property acquisition, and there is no reason why this assumption would apply between members of a particular society only rather than across particular societies. But if an act of establishing an ownership title over a previously unowned thing puts the agent under a duty of justice towards humanity at large, and if states have an obligation to maintain an ownership regime such that it satisfies the duties of justice, then the said obligation is owed to insiders and outsiders alike.

One may object that the fact of territorial jurisdiction cancels the obligations to outsiders because it involves a discretionary power to exclude the latter from the access to the state's territory and its resources or to make access conditional on permission for them. The state has the last and decisive word, within its jurisdiction, on who can enter its territory, who can settle on it, engage in paid work or acquire property. It controls the regime of property of land and other resources, the uses of property and the distribution of its fruits. An outsider has no claim to any of these advantages unless the state decides to extend it to her.²³

But the state's powers are not self-justifying. As I have already mentioned, they need to be justified in terms of what they do to human individuals. If a state changes the moral status of the outsiders with regard to its territory, by imposing various duties of forbearance on them, then the justification must be such that it also appeals to the outsiders, one by one. It must show that they are not treated unfairly by the restrictions involved in the establishment of the particular state within its particular borders.

By carving out a territorial jurisdiction for themselves, states do something analogous to what individuals do when they acquire property: they limit the residents of other states in their access to its territory and the other resources belonging to it, and expects them to respect these limitations as a matter of duty. Like the acquisition of property, the establishment of a state is a unilateral act. No state is created or run by way of obtaining consent for the limitations from the multitude of those affected.²⁴ So it cannot be claimed that limiting the access to a state's territory to outsiders is just because those affected by the limitations have consented to them. Unless those limitations count as fair measures to distribute the access to territory and other natural resources between insiders and

outsiders, they are not morally acceptable. If owning property commits an individual citizen against the entire humanity, then his state is so committed, too.

The same consideration applies to the justice in the economic transactions across state borders. If injustice is done to a person by violating just rules, the agent is subject to a moral duty to compensate the victim and to refrain from continuing the unjust activities. If injustice is done by exploiting the injustice in the rules in force, those who are potentially advantaged by the unjust rules have a collective duty to compensate the victim and to make sure that the rules are changed. If both agents and victims are citizens of the same state, their common state has a derivative obligation to see to it that compensation is paid and, that, the unjust rules are replaced by reasonably just ones. But the underlying moral claims and liabilities remain the same even if the agents and the victims belong to different states. Suppose a state refuses to cooperate with outsiders who address its courts with the aim to extract compensation from agents who acted on its territory in violation of the law, and to stop them in the continuing pursuit of the unjust activities. Or suppose it refuses to cooperate with a foreign state whose citizens continuously suffer harm from activities permitted by its unjust laws in force and which seeks to reach with it an agreement to change those laws. In both cases, its claim to sovereignty in domestic matters and to immunity against interference in all matters in which it is sovereign, if respected, deprives the victims of any means to gain redress. The state stands between the perpetrators who are acting on its soil and the victims who are living in another country. It demands the latter and their states to refrain from any act that would violate its claim to sovereignty and non-interference. But, again, this demand is not self-justifying. It needs to be justified to those who, as a consequence of the state's unique, ultimate and comprehensive control over its jurisdiction, have no protection against unjust practices pursued on its soil other than that which comes from it. And no justification can appeal to them that allows the state to act as a mere means in the hands of its citizens to exploit human beings who are not their fellow citizens. Only a state that makes and enforces laws to secure justice in the external relationships of its members can be justified. Thus, states do have duties regarding the economic transactions that are directed towards the outside world.

The above argument presupposes a political theory that is different in its structure and presuppositions from the traditional one. Habitually, political philosophers make the assumption of a closed society that is politically ordered by a state and, then, ask the question, how the state's claims, privileges, and powers can be justified to the members of its society – to its own citizens. The habitual approach is insufficient. Because, in a world with a plurality of states any state imposes normative constraints on outsiders, it needs to be justified towards the outside world, too. No state has the endorsement of morality unless it meets the standards of justice in both directions.²⁵

But I made a second contention at the beginning of this Section. I claimed that a state's moral debt to residents of other states is different in important respects from the way the state is indebted to its own citizenry. The justification owed to outsiders is not supposed to respond to the same claims insiders are entitled to raise. Let me address now this negative thesis.

When a state makes and enforces a legal system over a territory, it subjects the inhabitants of the country to a requirement to obey the law. They are expected to carry out instructions that limit their choices and sometimes do this in very exacting ways: citizens have to participate in the system of compulsory education, particular age groups of them may have to serve in the army, income earners have to pay taxes, and so on. The requirements imposed on non-residents are much less extensive. They are demanded to refrain from entering the soil of the state or to acquire property on it illegally, but so long as they are not there either in their person or as owners of holdings that are there, they have no other duty towards the state in question than to refrain from any acts that count as obstructing its workings from afar (e.g., from funding, enrolling, and training terrorists with the aim of subverting it).

Now justifying a mere claim of non-obstruction is a different task than justifying a claim of compliance. The requirement of refraining from acts that count as obstructing a state does not compel an individual to participate in practices against her interests or convictions. Provided that the state does not act as a mere means in the hands of its citizens to exploit the outside world (by means of withdrawing space and resources from it in ways that count as unjust and by means of enforcing unjust practices that harm people outside of its domain), non-residents cannot have

further complaints against it. To be sure, the state may act as a means of exploiting societies represented by states with a weaker bargaining position, and this kind of exploitation might involve much more dramatic cases of injustice than anything what a citizen might suffer at its hands. And a state that acts in this manner, is responsible for rectifying the injustice done to outsiders, and this responsibility might be extremely burdensome. But this is not the issue here. What is at stake here is this.

The claim of equality figures in the justification to outsiders as well. The demonstration that a state treats the outsiders in a fair manner is clearly subject to the constraint that the outsiders and the insiders are each other's moral equals. When the division of the world into political-territorial units is justified, everybody counts equally. But once a just division is completed, particular states are not supposed to treat outsiders and insiders equally. On the other hand, they are supposed to treat their insiders impartially at this second level, too, where partiality between insiders and outsiders is already permitted. It is this second-level requirement of impartiality – the impartiality in making and enforcing laws to those within the state's jurisdiction – that involves what I called generalized reciprocity. Treating insiders and outsiders with equal concern when it comes to justifying the division of the world into states does not require maintaining relationships of generalized reciprocity across state borders. To put it differently, drawing political boundaries between two groups of people does not involve them into a single political community. So what is at issue here is that no state, no citizenry has a duty of justice to rectify such injustices that are done to outsiders by other agencies, individual or collective. A state and its citizenry might have a duty of assistance to this effect. But that is a different matter.

A two- or multiple-level conception of global distributive justice follows. Uniting a society under the jurisdiction of a state transforms that society into a virtual community. The requirement that the state treats all its citizens according to the principle of generalized reciprocity is directly entailed in the nature of the authority that the state claims for itself vis-à-vis its subjects. No such consequence is involved by the claims the state makes against outsiders. The merger does not continue in the direction of the domains beyond a particular state's authority.

Before advancing this thesis as established, I want briefly to discuss a possible objection. The first part of the argument in this Section was heading towards the conclusion that the very emergence of territorial states gives rise to duties that bind these states and their citizenries towards people beyond their borders. But there is a problem here. In my description of a territorial state, I did not make use of any property of the contemporary regime of international relations that distinguishes it from the one inherited from the Westphalia peace accords, that rose to predominance in the 19th century and persisted in its hegemony until the end of the Second World War. Within that regime, any political organization which is recognized to be a state by the community of states commands sovereignty over its territory and has a right that it is not interfered with in its domestic affairs. But there are serious reasons to think that a state that reserves for itself all the sovereign powers over its jurisdiction and has the expectation not to be interfered with matters belonging to its domestic competencies is unable to live up to the duties triggered by its very rise and consolidation.

First, the responsibilities of basic justice, of correcting for and eliminating harm that is systematically caused across frontiers, and of providing nations in great distress with humanitarian assistance do not burden just one state and its citizenry but many: they are responsibilities that must be discharged by the common action of a large number of states. Therefore, the responsibilities beyond borders involve standard coordination and assurance problems, prisoner's dilemma type situations, and the like. Supra-state institutions are needed in order to deal with this kind of problems. Second, it is a gross violation of the requirements of procedural fairness if those advantaged by the inequalities in access to natural resources, by exploitative market exchanges, etc. are free to decide unilaterally about the sacrifices they assume in order to improve the position of the disadvantaged. Supra-state institutions involving both the advantaged and the disadvantaged need to be erected with an authority to handle this issue. Finally, securing justice across borders is not sufficient for a cosmopolitan order to obtain. It is as important that justice within borders is guaranteed. Governments can abuse of their powers, even constitutional protections can be transformed into a sham. The international order is not truly cosmopolitan unless it includes effective safeguards against the particular member states sliding into despotism. International

monitoring of human rights, reprimanding and punishing the violators are among the properties of any international system that wants to be cosmopolitan.

There are other powerful pressures pointing in the same direction. The boundaries between domestic and foreign policy are progressively melting away (is the regulation of the emission of carbon dioxide by domestic industries an internal affair?). The rise of transnational corporations exposes the regulatory and taxation capabilities of particular states to a severe test. The expansion of the financial markets reduces the ability of domestic governments to pursue social policies on their own. The acceleration of the financial transactions and the general improvement in the communications and transport technologies blurs the distinctions between local, regional and transregional markets. Modern technologies, such as the means of data transmission and processing, defy localized control. The increase in labor migration makes the binary division between citizens and non-citizens, an important feature of the traditional concept of citizenry, more and more obsolete. The tightening of the bonds of interdependence exerts an ever heavier pressure on the international regime inherited from the Westphalia peace accords.²⁶

A new world order is in the process of emerging as a response to these various but converging pressures. It does not point towards a merging of the many territorial states into one all-encompassing global state. With some exceptions, it leaves the separateness of states as it is but restricts their claim to sovereign rule over an exclusive jurisdiction and to non-interference with their domestic affairs. This seems to be self-contradictory. Let a state A's supreme instance receive binding instructions from any instance of state B, or let an instance of B give orders to any subordinate instance in A without the permission by A's supreme instance, that means by definition that A is not a separate state but part of B. But the contradiction between separateness and sharing of sovereignty disappears if a new type of political institutions obtain international standing: institutions that are political because they claim the authority to constrain the sovereignty of states, but without being states themselves. A political institution is not a state if it lacks some one or other defining feature of states. For example, its jurisdiction might not be defined with respect to a territorial domain (think of the OECD). It might not claim to regulate all possible activities within its jurisdiction, its competence being defined in relation to particular types of functions (think of an

international court of criminal justice). Or its regulations might not reach out to private individuals but stop at governments (think of the World Trade Organization). Finally, because these instances are special-purpose and non-territorial institutions, and because they are not united under one central organ but, rather, draw crisscrossing lines of authority, their rise does not mark a merger of the many states into larger and larger federations. The international order I am speaking about is closely similar in its structure to the one we are witnessing to emerge since about the end of the Second World War.

This is a slow, lopsided and conflict ridden process. It is not driven by moral considerations alone. But even if the sources for the increased pressure and the interests that motivate governments to react to it by institutional innovation are of a largely non-moral character, the emerging web of supra-state institutions lends itself naturally to an assessment from a moral point of view.²⁷

The question, what kind of supra-state institutions are needed to make the international order more nearly just, better conforming to the cosmopolitan ideal, does not pertain to the subject of this paper. There is an aspect of it that does, though. One might ask whether the conclusion drawn earlier in this Section (that the merger of the many overlapping difference principles does not continue in the direction of the domains beyond a particular state's authority) survives an honest account of the changes hinted at here. Isn't it the case that the process of bringing together the many separate states by a web of supra-state institutions give rise to a political community? Doesn't this process lead towards the rise of a principle of generalized reciprocity with a supra-state scope?

I have no settled view on this question, but my intuition is leaning towards a negative answer. The supra-state institutions as I identified them are not constitutive of political communities. Their claim of authority is never comprehensive, often is based on non-territorial considerations, and almost as often fails to reach out to ordinary citizens. The states themselves, and the communities informed by them, undergo significant changes in function of the growth of supra-state political institutions but those changes do not seem to involve a merger of the so many political communities into one or two.²⁸

While states have authority over their subjects whether or not the latter explicitly consented to it, the authority of the supra-state instances depends on an explicit act of adherence by the existing states. An individual might find himself on the territory of a state he never chose, as for example with a re-drawing of the borders after a war, but a state cannot find itself restricted in its sovereign powers unless it voluntarily shares some of these with an outside instance. Sovereignty is not necessarily complete in the sense of extending to all the competences within a jurisdiction, but it must be complete, in order to exist at all, with regard to a second-order competence of delegating first-order competences to another instance.

Now it is certainly true that for many economically and/or politically weak states adhering to such a supra-state instance might not be a matter of choice, and leaving it is probably not an option for most of the states once they joined it. Nevertheless, the authority of a supra-state institution remains tied to the authorization coming from the adhering states.

The ultimate source of the American constitution is “We the People of the United States”, not “We the States United to Erect a Federal Government”. In a similar manner, the world state, if created by federate states, would have as the ultimate source of its constitution “We the People of the United Globe”. The ultimate source for the authority of the supra-state organizations whose growth in number and competences is transforming the international order these days, is not the will of mankind but the concurring agreement of the particular states. In the regime which is unfolding before our eyes, states preserve not only their separate existence but also their privileged status as the agents that give authorization to other agencies with public international standing.

And so I am inclined to believe that the thesis of this Section remains true under the conditions of the contemporary world: domestic states remain the ultimate units of political community in the sense I used the term in this paper; their boundaries marking the limits for generalized reciprocity, which are the limits where the merger of the many overlapping difference principles stops.

VI. Distributive Justice Across Societies

The global society is ordered by a very large number of institutions, some of a wider, some of a narrower scope. Even if we focus our interest on the institutions with an impact on economic distribution, the picture will still remain extremely motley. There is no a priori reason why a single all-encompassing global difference principle would apply to the many different inequalities over the world. The general case seems to be that of many-many difference principles of varying scopes and overlapping jurisdictions.

For the sake of simplicity, let us admit that there is one institutional system with a global reach, the world market, and a number of domestic systems delimited by states. Let one fifth of the domestic systems be based on impersonal class relationships and the rest on personalized patronage networks. And let it be the case that, at the time when the market interaction started to take off across the boundaries of separate societies, the per capita income and capital endowment in one half of the class societies was significantly higher than it was either in the remaining class societies or in the patron-client societies. Then, there will be two limiting cases. The first consists in the finding that the growing market interaction propels high rates of sustained economic development in all class societies, with inter-society inequality remaining constant or decreasing with intra-societal inequality decreasing everywhere, while patron-client societies suffer economic stagnation or decay, and display growing intra-societal inequality. Neoclassical theories of economic development, popular in the 1950s and '60s would predict this outcome.²⁹ At the opposite extreme one finds the possibility that inequalities between and within societies go decreasing irrespective of their sociological structure provided that the gap is below a certain threshold at the beginning of the process, but that it tends to increase sharply if the initial gap is above the critical threshold, again no matter what the sociological structure of the disadvantaged society. This means that the internal structure of a patron-client society has no role to play in shaping economic inequalities, and it is entirely up to the global market system to bear the causal responsibility for their growth within that society and between it and the more developed societies. Theories of dependence, getting foothold in the 1970s and '80s, predict this kind of outcome.³⁰

In a neoclassical world, there are two difference principles, a global and a domestic one, but inter-society inequalities, although deplorable, cannot be attributed to the global system and, thus,

are not condemned by the global difference principle as unjust, while intra-societal inequalities within underdeveloped societies are condemned as utterly unjust, but are attributed to the domestic patronage system alone. In this world, therefore, only the domestic difference principle matters for assigning responsibility for unjust inequalities, and all the burdens of redressing inequality and of unblocking social change are allocated on the domestic elites.

In a world of dependency, on the other hand, the only relevant difference principle is the global one. All the unjust inequalities are attributed to the global market system, and all the costs of redressing them and of correcting the distortions in social and economic change are allocated to those societies that take advantage of the expansion of the market transactions over the Globe.

But there is no a priori reason why either of the limiting cases should describe the facts of the real world. And between them, there is an infinite variety of intermediary possibilities, the simplest one consisting in a neat division of causal responsibilities between the global system and domestic societies, the first explaining the incidence of a widening gap between societies while the latter providing the explanation for the widening of the gap within a disadvantaged society. (This would be the case had we found that a class society and a patron-client society which were at the lower end of the scale at the time when the expansion of the world market took off both stagnate or deteriorate as they are getting penetrated by market relations, but with intra-societal inequality remaining the same in the class society while increasing markedly in the patron-client society.) The more complicated cases are those where the global system plays some role in explaining intra-societal inequalities, while the domestic system on its part contributes to the explanation of aggregate underdevelopment. All these cases involve at least two difference principles: one that applies to the global system, and another one applying to the domestic systems.

In every world other than one fully shaped by dependency, cosmopolitan justice requires simultaneous satisfaction of many overlapping difference principles. Because the institutional systems to which these principles apply are of varying scope, the correct cosmopolitan theory seems to be a two- or multiple-level one. In two particular cases, the levels are neatly separated. In the neoclassical case, all the unjust disadvantages pertain to the level of the underdeveloped domestic society. In the case of a neat division of responsibilities, unjust inequalities between

societies are attributed to the global level, while unjust inequalities between individuals belonging to the same society are attributed to the domestic level. All the other cases require some kind of a multiple-level theory with shared responsibilities at each level.

Let me now turn to the question, how does the Rawlsian theory of international relations look like in the light of these results. Rawls makes it very clear that, according to him, “each kind of subject – whether an institution or an individual, whether a political society or a society of political societies – may be governed by its characteristic principles”,³¹ and he attributes principles to a society of political societies that are different from those governing a political society. “[T]here is no reason to think, he maintains, that the principles that apply to domestic justice are also appropriate for regulating inequalities in a society of peoples.”³² In this and parallel formulations, Rawls is careful to avoid explicitly stating that the principles regulating inequalities in a society of peoples are not principles of justice. But this is what he is intimating.

He offers two main reasons to support his view that the principles of distributive justice do not apply to the level of the society of peoples. First, he maintains that “there are various kinds of societies in the society of peoples and not all of them can reasonably be expected to accept any particular liberal principle of distributive justice; and even different liberal societies adopt different principles for their domestic institutions”.³³ This argument is not persuasive. Not even different members of the same liberal society can be expected to endorse the same principles for their domestic institutions, moreover, not even different liberal-minded members of the same society do so (many liberal political philosophers reject the difference principle and propose some alternative principle – equality of welfare, equality of resources, equality of capabilities or equality of access to advantage – instead). Nevertheless, Rawls argues in *A Theory of Justice* that in well-ordered, constitutional democratic societies the difference principle governs the distribution of advantages and disadvantages, and he sticks to this claim in “The Law of Peoples”.

Rawls’s second argument is, in fact, that the difference principle “belongs to the ideal theory for a democratic society and is not framed for” an international society of peoples.³⁴ But what motivates this claim?

I believe that the motivation comes from a deep ambiguity in the interpretation of the difference principle. On the one hand, Rawls maintains that “[i]n justice as fairness men agree to share each other’s fate”,³⁵ and the vehicle through which mutual sharing is carried through is the difference principle, of course. “[S]haring each other’s fate” is to be understood as setting a very high standard: it is closely related to what Rawls calls “fraternity”, the attitude of “not wanting to have greater advantages unless this is to the benefit of others who are less well off”.³⁶ All this very well fits with the stronger reading of the difference principle that does not allow for any inequalities unless they are necessary for improving the position of the worst-off. The natural home for such a conception is, of course, a domestic society politically ordered by a state, where generalized reciprocity prevails in the political relationships between citizens.

But in this interpretation, the conception is not one of distributive justice. Distributive justice has grounds other than generalized reciprocity. It is based in the unity of mankind plus some empirical circumstances such as the scarcity of resources. These considerations hold irrespectively of whether the society under consideration is organized politically by a state or not. And fairness, what they require, is something else than a principle that condemns any inequality that is not necessary for improving the lot of the worst-off, and demands that the advantages are redistributed, even if they have not been obtained at the cost of others.

What generalized reciprocity really does is not giving rise to the issue of justice in distribution or determining a principle for distributive justice but reallocating the burdens of maintaining justice, determined independently from it, within a community. In other words, it redefines the scope of individuals to whom a claim of distributive justice is addressed.

Rawls has another conception of justice as fairness that does not hinge on individuals sharing one another’s fate, a conception of reciprocity which is of a balanced rather than of a generalized kind, and of a difference principle condemning inequalities only if the advantage of the better off results from acts that positively harmed the worse off. Even a competitive market can satisfy, provided that the background conditions of the initial distribution are fair (i.e., they are not affected by the hazards of nature and the contingency of one’s place in society). This second conception is

of a general scope, it applies to any kind of institution, not just the peculiar institution of the state. There is no reason why it could not be extended to the level above particular states.

Ultimately, I think, the justification of the belief that it cannot must hinge on empirical assumptions. The assumptions in the background of Rawls's view are not even those of the view I called neoclassical. Because the neoclassical view accords significant distributive effects to the market, it does not entail that requirements of distributive justice do not apply to the market system. It simply assumes that a reasonably free and competitive market tends automatically to satisfy those requirements, and unjust inequalities are due at all levels to the interference of non-market institutions. The idea that the society of peoples is not governed by principles of justice relies on different sort of assumptions. One of these, explicitly stated by Rawls, holds that the hazards of the unequal access to natural resources are irrelevant for economic development.³⁷ The other assumption, left hidden behind the statements of "The Law of Peoples", would hold that the economic transactions across borders are negligible as compared with the transactions within a society. Where both conditions obtain, distributive justice does not apply: not because there is no agreement on what would qualify as a correct principle of justice, but because there is no distribution problem requiring a just solution.

An international society of domestic agrarian societies with low population densities and enough uncultivated land for internal colonization on the one hand, and with low-level international trade on the other, would fit well this picture. Immanuel Kant could still conceive the world in this manner. This is why Kant was still permitted to think that a cosmopolitan order can be put in place by subjecting the international regime to his three 'definitive articles of eternal peace': that all states adopt a republican form of government, all join a peace federation and, finally, visitors from a foreign country enjoy general hospitality everywhere (i.e., all governments see to it that they are not met with hostility by domestic residents).³⁸

Kant was mainly interested in the conditions of perpetual peace, and he discussed the republican form of government, the federation for peace and the practice of general hospitality as means to eliminate the wars of aggression from the relationship among states. He did not take much pains to explain why the three articles of the eternal peace would lead to a world order he called

cosmopolitan (weltbürgerlich: one of universal citizenship). But the underlying idea is easy to discern, I believe. His concept of a republican government includes, among other things, freedom and equality for all citizens. Therefore, if all governments are republican, then all human beings, no matter where they should hold citizenship, enjoy similar negative rights at home. General hospitality means that each state commits itself to refrain from mistreating visitors from a foreign country and to prevent its citizens from mistreating them. Thus, that subset of fundamental rights which is relevant for an individual while he is paying visit to a foreign country, is secured for everyone, everywhere. And no state can violate the rights of non-citizens by way of invading the territory of their state because the three 'definitive articles' are supposed, jointly, to secure that there are no wars of aggression. All this is can be secured without overcoming the international regime marked by complete sovereignty and non-interference.

But even if the assumptions of a room for internal colonization and of a negligible role of international trade in explaining inequalities within and between societies obtain, and even if their accuracy lends support to Kantian cosmopolitanism, Kant's own account is for wanting. First, he fails to address the dangers inherent in the fact that even in a republican regime (a constitutional democracy) those occupying the offices of government concentrate an immense power in their hands. Particularly, he is silent about the possibility that the republican institutions might be reduced to the role of a sham for despotic government. The ineliminable presence of this possibility raises doubts about the cosmopolitan credentials of an international system that leaves the protection of human rights entirely to the discretion of states. Secondly, Kant fails to recognize that domestic societies might be bound to each other by duties of assistance. From time to time, some of them are visited by natural calamities such as earthquakes, floods and droughts, their governments being incapacitated in front of the magnitude of the disaster, while others having the organization and the material resources to provide the former with effective help at no prohibitive cost to their own citizenry. Or some societies might find themselves bogged down in a low-level equilibrium trap, while others having at their disposition the means to assist them to escape from it and taking a path of successful development (again, at no prohibitive cost to their own citizenry). Both types of situation trigger duties of assistance that the better-off societies owe to the worse-off. An

international system that wants to be cosmopolitan has to include some regime of assistance or other alongside a regime of human rights. In these two respects, it must go beyond the world of domestically sovereign states that practice non-interference with each other's domestic competencies.

Now Rawls's theory of international relations can be seen as continuing the Kantian heritage and stretching it to its outer limits. Rawls, in fact, carried out, in "The Law of Peoples", the two improvements on the scheme proposed by Kant in "Perpetual Peace", without dedicating any reflection to the momentous changes in the world that make the hidden assumption limiting Kant's conception untenable. Although his society of peoples is ordered by an international human rights regime and by duties of international assistance,³⁹ he continues to believe that the development of a country depends primarily on its political and cultural traditions, human capital and knowledge, and capacity for economic and political organization. "The great social evils in poorer societies are likely to be oppressive government and corrupt elites", he maintains.⁴⁰ In sum, Rawls's conception is ultimately limited by its empirical presuppositions, not by philosophical assumptions. Once we drop these presuppositions, we are in a world which cannot be cosmopolitan unless it satisfies requirements of distributive justice across borders.

VII. Coda

Two brief remarks in conclusion. First, the results of this paper might perhaps be read as implying that, after all, only a world state would qualify as genuinely cosmopolitan. This is not where my argument was heading. A global government would involve a global principle of generalized reciprocity, to be sure. But an international regime with a plurality of states and so many generalized reciprocity principles could do as well as a single global government with a single generalized reciprocity. Under ideal assumptions, the two systems would yield equally just distributions, the only difference being that in the world state regime a one-level principle would take care of the justice in the distribution of income and wealth, while in a regime comprising a

plurality of states, principles whose scopes cut across state boundaries would take care of, say, the distribution between societies, while each society would be ordered by one overall principle that would take care of the distribution between individuals. There are good reasons, to be sure, to drop the ideal assumptions, and face the realities of injustice in our world divided into so many states. But, then, the non-ideal theory of the world as we know it should not be compared with an ideal theory of the world state. And once we conceive of the world state against the assumptions of a non-ideal theory, the plurality of states will not fare as badly as the false comparison would suggest. As we know it since Kant, the world state is not a very attractive idea after all.⁴¹

Secondly, I tried to understand the conception of international relations from Kant to Rawls as a view that reflected particular historical circumstances. I believe that this conception is a by and large adequate cosmopolitan answer to conditions that are gone by now. The normative requirements of cosmopolitanism change as human society itself undergoes momentous changes. Does it follow that the different cosmopolitan conceptions relativised to different eras are equally good versions of cosmopolitanism? It does not, because the circumstances themselves to which the various conceptions are to be relativised are subjects of normative assessment in the light of the values cosmopolitanism cherishes. The cosmopolitan thought is not neutral as between a world with a low level of interaction across frontiers and a world integrated by a dense flow of goods and ideas. It prefers a globalized world to a world of parochialisms. It holds that the cure for the injustices and cultural tensions generated by globalization is globalization itself. And so contemporary cosmopolitanism is not simply different from Kantian cosmopolitanism: it is superior to it. This is a through and through Kantian attitude. Kant wrote: „Auf diese Art können entfernte Weltteile mit einander friedlich in Verhaeltnisse kommen, die zuletzt öffentlich gesetzlich werden, und so das menschliche Geschlecht endlich einer weltbürgerlichen Verfassung immer naeher bringen können.“⁴²

¹ Zeno the Stoic was reported by Plutarch to have written, in his *Republic*, “that our household arrangements should not be based on cities or parishes, each marked out by its own legal system, but we should regard all men as our fellow-citizens and local residents, and there should be one way of life and order, like that of a herd grazing together and nurtured by a common law”. See A.A. Long and

D.W. Sedley: *The Hellenistic Philosophers* I. Cambridge: The University Press 1987, 439.

² Minor figures in the 18th century political thought did cherish the idea of a global government. E.g., the Prussian ex-baron von Klotz (deputy of the French revolutionary Convent under the name Anacharsis Cloots) was a dedicated partisan of world government. See R. Pomeau: *L'Europe des Lumières*. Paris: Stock 1966, 205. The most prominent cosmopolitan thinkers, Condorcet or Kant, for example, did not place themselves in this tradition. For Condorcet's position, see his *Esquisse d'un tableau historique des progrès de l'esprit humain*. Paris: Flammarion 1988, 288 ff. Kant developed his views at various places, such as "Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht", "Über den Gemeinspruch: Das mag in der Theorie richtig sein, taugt aber nicht für die Praxis" and "Zum Ewigen Frieden". All the three writings in Kant: *Werke* 9. Darmstadt: Wissenschaftliche Buchgesellschaft 1964. Kant's position is particularly telling, and I will return to it later on.

³ See J. Rawls: "The Law of Peoples", in Rawls: *Collected Papers*. Cambridge, Mass.: Harvard University Press 1999, 529-564.

⁴ The term "two-level conception" is Charles Beitz's. See Beitz: "International Liberalism and Distributive Justice", *World Politics* 51 (1999) 269-296 (280).

⁵ Rawls: "Law", 559, 541.

⁶ See Pogge: "Cosmopolitanism and Sovereignty", *Ethics* 103 (1992) 48-75, "A Global Resource Dividend", in D. Crocker and T. Linden, eds: *Ethics of Consumption*. Totowa, N.J.: Roman and Littlefield 1999, "Priorities of Global Justice" *Metaphilosophy* 32 (2001) 6-24.

⁷ Pogge: "Cosmopolitanism", 52.

⁸ C. Beitz: "Social and Cosmopolitan Liberalism", *International Affairs* 75 (1999) 515-530 (518).

⁹ *Ibid.*, 519.

¹⁰ *Ibid.*

¹¹ *Ibid.* 520.

¹² See C. Beitz: "International Liberalism and Distributive Justice", *World Politics* 51 (1999) 269-296 (277). Cf. Beitz: *Political Theory and International Relations*. Princeton: The University Press 1979, 143-153.

¹³ See "Social" 288, fn 66.

¹⁴ I set aside, for the sake of simplicity, the possibility that market exchanges might cut across the state's boundaries and, that, some of those involved with economic activities on the territory of the state might not be its citizens. This possibility does not affect my argument.

¹⁵ It can also be under-inclusive at the same time. Suppose the state on the territory of which the industrialist causes harm to the fishermen is economically open: then the sets of people who are either indirectly benefited or indirectly disadvantaged might include non-citizens.

¹⁶ A minimal state is distinguished by Robert Nozick from an ultra-minimal state (that is not a genuine state at all) exactly by this property of extending the state's services to all. See Nozick: *Anarchy, State, and Utopia*. Oxford: Blackwell 1973.

¹⁷ See R. Dworkin: *Law's Empire*. Cambridge, Mass.: Belknap 1986.

¹⁸ See M. Sahlins: *Tribesmen*, and R.M. Service: *Hunters*.

¹⁹ *Ibid.*

²⁰ For such a view, see M. Walzer: *Spheres of Justice*.

²¹ Alisdair Mac Intyre seems to hold the independent moral status view in *After Virtue* and *Is Patriotism a Virtue?* Liberal communitarians, such as Charles Taylor, tend to avoid the independent status view, although at some points in *Multiculturalism*, Taylor himself seems to make claims that are difficult to make sense without signing up to this view.

²² I said above that libertarians deny the existence of this normative constraint. That is literally true about consequent libertarians like J. Narveson. See Narveson: . Robert Nozick is not a consequent libertarian in this regard, because he acknowledges that the principle of property acquisition is subject to a distributive proviso, although he fails to recognize the implication of this concession. For a libertarian with radically redistributivist views in the domain of basic justice, see H. Steiner: . Narveson's views have been very convincingly rebutted by Gerald Cohen: .

²³ There are some exceptions. For example, a non-citizen with permanent residence in another country may inherit property within the territory of a state.

²⁴ Note to Brilmayer. Ultimately, the international community of states gives recognition to a newly created state, and this can be interpreted as an act through which citizens of the other states themselves recognize the new state's territorial rights. However, international recognition tends to come after the event when the matter has already been effectively decided by the use of force and threats.

²⁵ See Scheffler, Copp

²⁶ For a balanced summary of these (and opposite) trends, see E. Hobsbawm: "The Nation and

Globalization", *Constellations* 5 (1998) 1–9.

²⁷ Thomas Pogge suggests, in his "Cosmopolitanism and Sovereignty", *Ethics* 103 (1992) 48-75, that the cosmopolitan order should evolve in this direction.

²⁸ The (conflictual and uneven) progression of the European Union towards the status of a genuine confederation of states does not count as an exception to the rule, it is a unique case representing a different pattern of evolution: the EU is not one of the supra-state institutions that I have described above.

²⁹ See C.P. Kindleberger: *Economic Development*. London-Toronto-New York: McGraw Hill 1958; J.C. Meade: *A Neoclassical Theory of Economic Growth*. London: Allen and Unwin 1962.

³⁰ For a classical formulation of the dependency thesis, see F. Cardoso and E. Faletto: *Dependency and Development*. Berkeley, Cal.: University of California Press 1979.

³¹ "The Law of Peoples", 558.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ TJ 102.

³⁶ Ibid., 105.

³⁷ "Law", 559.

³⁸ For the three conditions, see "Zum ewigen Frieden", 204-217.

³⁹ On human rights, see *ibid.* 553f, on assistance, see *ibid.* 541, 559.

⁴⁰ *Ibid.*, 559.

⁴¹ "Zum ewigen Frieden", 225. "Gemeinspruch", 169. For Rawls endorsing Kant on this point, see "Law", 539. For a similar statement by Pogge, see "Cosmopolitanism", 63. For a dissenting voice pleading for the world state, see Kai Nielsen: "World Government, Security, and Global Justice". S. Luper-Foy, ed.: *Problems of International Justice*. Boulder: Westview Press 1988.

⁴² "Zum ewigen", 216. [Sorry, I have no English translation at hand.]