

# COSMOPOLITAN JUSTICE AND RIGHTFUL ENFORCEABILITY

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## Introduction

Over the past twenty years or so, the topic of so-called global justice has become the centre of much philosophical theorizing and debate. Up to this day, the debate has been somewhat polarized between cosmopolitan and anti-cosmopolitan views. The former are characterized by a commitment to extending domestic egalitarian principles of justice to the world at large. The latter, by contrast, deny that distributive equality is a value to be pursued at the global level, and opt for global sufficiency instead. At least that is how the debate is often characterised.

Both cosmopolitans and their opponents see themselves as operating within a broadly liberal normative framework. That is, they both believe that the moral principles they advocate represent the best articulation of a liberal political morality, based on the moral equality of persons qua rational and autonomous agents.<sup>1</sup> Cosmopolitans hold that persons' moral equality demands global equality; anti-cosmopolitans believe that such moral equality is compatible with equality domestically and 'sufficiency' internationally.

Although the debate between these two views is described as one about *justice*, surprisingly, relatively little attention has been given to what this description entails. In particular, very few participants in this debate explicitly acknowledge that principles of justice differ from other types of moral concerns in that they establish *rightfully enforceable entitlements*. Taking the lead from this observation, in this chapter I show that thinking of justice in terms of enforceable entitlements puts pressure on some popular cosmopolitan claims. In particular, I argue that, once justice is linked to rightful enforceability, it becomes much harder for cosmopolitans to defend full-blown global egalitarianism. By taking seriously the idea that principles of justice set out enforceable entitlements, cosmopolitans are thus pushed closer to, though still at some distance from, the views defended by their opponents. My argument can be helpfully presented in the form of a trilemma.

- a. Justice is rightfully enforceable.
- b. Justice demands global equality.
- c. Global equality (qua global equality) is not rightfully enforceable.

If justice is rightfully enforceable, but global equality is not, then it follows that global equality is not a demand of justice, contrary to what cosmopolitans maintain.

The chapter is structured as follows. In section 1, I offer some preliminary observations on the nature of justice as a special kind of moral concern, thereby elucidating *Claim a* in the trilemma. In section 2, I focus on *Claim b*, and outline the main features of cosmopolitan justice. In sections 3 and 4, I defend *Claim c*. I first provide some intuitive evidence to the effect that cosmopolitanism does not offer a plausible account of rightfully enforceable entitlements at the global level. I then supplement this intuitive evidence with a systematic defence of the claim that global egalitarian principles are not rightfully enforceable and therefore not genuine principles of justice. I argue that, since global equality is reasonably contested as an

interpretation of equal respect, its demands cannot be imposed on dissenting parties without thereby violating equal respect (i.e. justice) itself. Under these circumstances, at least part of what justice requires must be established through fair decision-making procedures expressing equal respect for all. In section 5, I offer a tentative sketch of what global justice so understood requires. If I am right, taking the enforceability of justice seriously leads us to advocate global sufficiency at the level of outcomes, and global equality at the level of procedures, thereby steering a middle course between cosmopolitanism and its opponents. In section 6, I consider an objection to this newly developed perspective, and then conclude with some broader reflections on the implications of this approach for thinking about global justice.

### **1. Claim a: Justice and Rightful Enforceability**

The notion of justice appears to occupy a special place in contemporary political philosophy. No doubt this is partly due to it being the pivotal concept in Rawls's seminal book *A Theory of Justice*. But more generally, the centrality of justice in political philosophy, including in Rawls's book, has much to do with its special nature as a type of moral concern. Justice is certainly one value among others, including friendship, courtesy, charity, and so forth. All of these values generate duties, thereby binding the conduct of agents vis-à-vis one another. Duties of justice, however, are distinctive in that, unlike duties of friendship or duties of charity, they generate *rightfully enforceable entitlements*.<sup>ii</sup> By this I mean entitlements which may be enforced without wrongdoing, independently of the actual availability of agents who are willing to enforce them.

To appreciate the special nature of justice, consider the differences between the following three cases.

**Charity:** Bob has just stopped at a gas station to re-fuel his car, when he sees a man, John, sitting on the street and looking desperate. Bob approaches John and expresses concern for his condition. John reacts by telling Bob what has happened to him. After being left by his beloved girlfriend, John went to Las Vegas, where he ended up gambling all of his belongings away. He used to be perfectly well-off, but he now has nothing left: no partner, no money, no car, no house. Moved by John's predicament, Bob decides to help him by giving him five hundred dollars.

**Friendship:** Janice is about to go out partying with some colleagues, when one of her closest friends, Mary, calls her in tears: her boyfriend has left her. Mary, who has been a loyal friend to Janice over many years, is at home alone, sobbing away. Under those circumstances, Janice no longer feels it would be appropriate to go out partying. She excuses herself with her colleagues and tries to comfort Mary instead.

**Justice:** Alfred has purchased a valuable clock from an antiques shop. He turns up to the shop with the intention of collecting his purchase, but the shop manager, Bill, pretends to have no recollection of the transaction. Alfred insists that he is now rightfully entitled to that clock, and that Bill ought to comply with his contractual obligations.

Let us briefly analyse these different scenarios. In the first one, Bob may be said to act out of a duty of *charity* to help the needy when this can be done at reasonable costs. This duty, however, is not correlative to a right, and neither is it rightfully enforceable. John, the reckless gambler, has no right against Bob to any sum of

money, and it would certainly be wrong for the state or for John himself to force Bob to contribute the five hundred dollars he independently decides to donate.

In the second scenario, Janice may be said to act out of a duty of friendship. Mary, the friend who has supported Janice so many times over the years, is in need of help, and it is Janice's duty, *qua* friend, to help her. In fact, we might even say that Mary has *a right* to be helped by Janice. Mary does not have a right to be consoled by her neighbours (who have just moved in), or by the shop assistant in the department store next door, and so forth. However, she does seem to have a right to be comforted by her friend Janice. Still, this right is certainly not enforceable. We would regard it as absurd if the state, or Mary herself, tried to enforce it. Doing so would be self-defeating. Spontaneity, and a genuine concern for the other, are the very building blocks of friendship.

Now consider the third scenario. Here Alfred has a right to the antique clock, and Bill a duty to give it to him. Moreover, if Bill refuses to hand the clock to Alfred, Alfred may legitimately ask the state (particularly the police) to enforce his right. Since the clock is Alfred's property, failing to give it to Alfred would be to commit theft. Respect for property rights is one of the cornerstones of justice, and precisely the sort of thing which the state may rightfully enforce.<sup>iii</sup>

The idea that principles of justice set out rightfully enforceable entitlements, intuitively illustrated with the three examples above, has a distinguished pedigree in political philosophy. Thinkers like Immanuel Kant and John Stuart Mill have defended it, as well as a number of contemporary scholars, including John Rawls and Robert Nozick.<sup>iv</sup> Indeed, despite their considerable substantive differences, both of Rawls's and Nozick's theories of (domestic) justice are meant to set out principles which may be rightfully enforced by the state. As Brian Barry eloquently says, '[p]olitical philosophy is not about what we think it may be nice for people to do but what, at any rate in principle, they can be made to do.'<sup>v</sup> In line with this, justice, arguably the key concept within political philosophy, tells us what people can, in principle, 'be made to do'.

It is important to note that the link between justice and rightful enforceability stems directly from liberalism's commitment to persons' autonomy. As I mentioned at the outset, liberals endorse the principle of equal respect for persons *qua* rational and autonomous agents. From a liberal point of view, a social system can be said to honour equal respect, if and only if each member possesses a space of choice within which to pursue her ends and goals without being interfered with by others. That is, the social order must be so designed as to allow each to enjoy the necessary social conditions to lead autonomous lives. Principles of justice are meant set out what these conditions are. If an agent fails to act on those principles, i.e. if he/she fails to respect others' space of choice, it is rightful to curtail his/her autonomy by forcing him/her to comply with what justice demands. The limits on autonomy imposed by enforcement are justified as a means of defending autonomy itself.<sup>vi</sup>

Given the role of justice as protector of liberalism's master-value, i.e. persons' autonomy, and given its rightful enforceability, its prominence within debates about international morality should come as no surprise. This leads me to analyse *Claim b*, namely the cosmopolitan account of justice.

## **2. Claim b: Cosmopolitan Justice as Global Equality**

In the present chapter, by 'cosmopolitanism' I indicate the view that the *egalitarian* principles of justice which liberals believe apply at the domestic level should also apply to the world at large. There are, of course, different variants of cosmopolitanism

so conceived, depending on (i) what particular type of distributive criterion cosmopolitans endorse and (ii) what particular unit of distribution they favour. For instance, some might adopt a Rawlsian approach and defend strict equality in relation to basic liberties and opportunities, and maximin with respect to income and wealth. Others, by contrast, might opt for some version of so-called responsibility-sensitive egalitarianism or luck-egalitarianism, and contend that ‘global’ disadvantage is just when it is traceable to choice, but unjust (hence in need of rectification) when it is traceable to circumstances outside an agent’s control.<sup>vii</sup> In turn, the idea of ‘advantage’ may be cashed out in terms of welfare, of opportunity for welfare, or of a combination of welfare and material resources and so forth.<sup>viii</sup> What characterizes the cosmopolitan position, at any rate, is a broad commitment to global egalitarianism, understood as a demand of *justice*, stemming from the moral equality of persons. For cosmopolitans, justice consists in the realization of a certain end-state distributive pattern at the global level.

This broad description of cosmopolitanism encompasses both so-called relational and non-relational cosmopolitans.<sup>ix</sup> The former argue that egalitarian justice is triggered by the existence of special kinds of relations between people, and that these relations now exist on a global scale.<sup>x</sup> The latter, by contrast, consider global equality a direct implication of equal respect, independently of the existence of global structured interaction or cooperation.<sup>xi</sup> For present purposes we need not worry about these finer-grained differences, but can simply focus on the cosmopolitan (i.e. global egalitarian) position broadly construed.

Before moving on, let me respond to those who might question my definition of cosmopolitanism. Equating cosmopolitanism with global egalitarianism, they might say, is misleading. Cosmopolitanism is instead best defined in terms of a general commitment to persons’ being fundamental objects of moral concern.<sup>xii</sup> Would this not be a more general and charitable description of this view? It would not. This is because anti-cosmopolitans also insist that they are committed to the moral equality of persons. Their claim is precisely that this moral equality allows for a differentiated system of moral obligations: more demanding at home (i.e. egalitarian), less demanding globally (typically sufficientarian).<sup>xiii</sup> More illuminating, I believe, is a definition of cosmopolitanism in line with its etymology. ‘Cosmopolitan’ means ‘citizen of the world’, and suggests the existence of a world-large polity (from a moral point of view) to which principles of domestic justice should apply. Since, within liberal quarters, such principles are egalitarian in form, a cosmopolitan view demands the extension of distributive equality to the world at large.<sup>xiv</sup>

Having clarified the nature of cosmopolitan justice, I now turn to *Claim c*.

### **3. Claim c: Cosmopolitan Justice and Rightful Enforceability—The Intuitive Argument**

If my claims about the nature of justice as setting out rightfully enforceable entitlements are correct, then we must conclude that, for cosmopolitans, equality (of whichever form) ought to be ‘enforced’ at the global level. To be sure, cosmopolitans hardly ever emphasize the rightful enforceability of justice, but this is probably because they take it for granted. A supporter of a global version of the difference principle would likely answer the question ‘Should the citizens of the world be taxed in accordance with the demands of Rawlsian justice?’ in the affirmative. Similarly, a supporter of global luck equality or some other cosmopolitan view would presumably welcome the imposition of a global institutional system which realizes the demands of justice as she conceives of them.

Despite its seemingly straightforward nature as a view about enforceable morality, cosmopolitanism hides a deeply unpalatable implication. If, *ex hypothesi*, it were possible to realize global equality only by instituting a global dictatorship of the enlightened, then *cosmopolitan justice* would require instituting it. From a cosmopolitan perspective, the task of global institutions is to implement an independent conception of egalitarian justice. In choosing institutions, then, the cosmopolitan will have to look at which are the ones most likely to achieve this aim. If it turns out that a global oligarchy is better at doing the job than alternative institutional systems, then *cosmopolitan justice* would require establishing it.

I take it, many would feel that such a global oligarchy would fail to be true to the ideal of equal respect at the heart of the liberal understanding of justice.<sup>xv</sup> Perhaps the distributively egalitarian world envisaged in our example is not fully unjust, but it is not fully just either.

At this point, there are two responses available to cosmopolitans. First, they might reply that the envisaged global oligarchy would indeed be morally problematic, but not from the point of view of justice. Instead, a global oligarchy of the enlightened would breach some other value, such as legitimacy. To say that something is just, they might suggest, is not to say that it ought to be enforced. The permissibility of enforcement depends on principles being ‘validated’ through fair (e.g. democratic) decision procedures. A principle might truly indicate what justice requires, and yet not be permissibly enforceable.

It should be clear that this response, although not uncommon in discussions about justice, is not admissible from the perspective adopted here. To say that a certain principle X is not rightfully enforceable *is* to say that it is not a principle of justice. And it would be somewhat unfair to take cosmopolitans not to put forward theories of global justice in this stronger sense. After all, cosmopolitans often see themselves as extending the principles of justice liberals defend at the domestic level to the global realm. Since domestic principles of justice are clearly marked by rightful enforceability, we can infer that global ones are too.<sup>xvi</sup> Moreover, even though, as I mentioned earlier, cosmopolitans do not dwell a great deal on the ‘enforceability’ aspect of justice, their insistence on justice as opposed to other kinds of moral concerns must be justified by appeal to justice’s specific features. Cosmopolitans do not seem to present their theories as setting out what ‘it may be nice for people to’, but rather as indicating ‘what, at any rate in principle, they can be made to do’ (again, to use Barry’s words). To that extent, they are concerned with justice *qua enforceable morality*.<sup>xvii</sup>

The second line of argument open to cosmopolitans consists in biting the bullet, by trying to explain away the anti-oligarchic intuition. After all, we know that an oligarchic global structure would in all likelihood not implement the global egalitarian ideal. Those in power could be easily corrupted, and this is why we resist the thought that elite-based global egalitarianism could be just. The intuition about the non-enforceability of global equality, cosmopolitans might therefore suggest, stems from our reluctance to accept the empirical, rather than the conceptual, possibility of the relevant counterfactual scenario (i.e. of a just global oligarchy).

Cosmopolitans by and large agree that, practically speaking, it would be a terrible idea to try to implement global justice oligarchically. Much more effective would be a global democratic (or quasi democratic) institutional arrangement. All they need to claim in order to vindicate their views about justice is that, *in principle*, a *just* world governed by a small elite is possible. Their argument goes as follows:

- i. Justice (enforceable morality) is based on equal respect;
- ii. equal respect demands global equality;
- iii. *if* leaving a global elite in charge maximizes our chances of achieving global equality;

Conclusion: *then* global elite government is just (i.e. what justice demands).

This argument seems sensible, and it is valid. In order to reject its conclusion, thereby showing that cosmopolitanism does not offer a plausible account of justice, we need to explain why it is unsound. Focusing on premise (i) or (iii) will not do. Premise (i) states the core commitment of liberalism, which I have taken for granted throughout the chapter. Premise (iii) is assumed for the sake of argument, and its empirical truth need not be established. Our target, then, will have to be premise (ii), namely the claim that equal respect demands global equality.

#### **4. Claim c: Cosmopolitan Justice and Rightful Enforceability—The Systematic Argument**<sup>xviii</sup>

Cosmopolitans endorse premise (ii), that equal respect, hence justice, demands global equality. Problematically, however, there is *reasonable* disagreement about this claim.<sup>xix</sup> That is, people who are genuinely committed to equal respect disagree about what it implies for our enforceable rights. It is crucial to note that, for their disagreement to count as reasonable, it must be limited in certain ways. For instance, the view (widely accepted in Saudi Arabia) that women, unlike men, should be prohibited from driving is unreasonable. How could equal respect for persons possibly ground such differential treatment between women and men? Similarly, a view which prohibited women or members of certain religious groups from voting or running for political office would also be deemed unreasonable. Once again, there is no plausible way of interpreting it as an operationalization of equal respect.

People who reasonably disagree about equal respect therefore agree on a set of fundamental entitlements constituting necessary conditions for a social system to qualify as just. Among them are the right to life, to freedom of movement, to access basic material resources, to equal treatment before the law and so forth. A social system within which these rights were not respected could not count as an instantiation of equal respect. Absent these protections, people can hardly be said to enjoy the social conditions to lead decent lives in pursuit of their ends and goals.

Despite their broad agreement on such ‘justice fundamentals’, people who take equal respect seriously disagree about (i) where exactly the boundaries of fundamental rights have to be drawn and (ii) what else equal respect demands. That is, *they (partly) disagree about the conditions under which a social system qualifies as just or unjust.*<sup>xx</sup> For instance, some think that, since equal respect demands respecting persons’ free choices, entitlements should be determined in accordance with the outcome of market transactions. Others believe that, since autonomy is of paramount importance, and neediness is the greatest threat to autonomy, resources ought to be given to those who need them most, no matter whether their need is self-imposed or a matter of bad luck. Others still contend that resources should be distributed in an egalitarian manner. Within the latter group, in turn, there are advocates of strict equality, of luck-egalitarianism, of Rawlsian maximin and others.

If each person acted on the basis of her favoured criterion, the result would of course be far from what justice demands, leading to chaos and arbitrariness. What is more, to the extent that these different criteria are all at least in principle compatible

with equal respect for persons, no-one, including the liberal political philosopher, can claim the moral authority or expertise to impose her views on others who disagree with her. After all, they all hold reasonable interpretations of the demands of justice. Imposing one, reasonably contestable, account of what equal respect demands would be contrary to equal respect itself. How can a social system equally respect everyone's autonomy if it selects a contested view of people's entitlements and imposes it on dissenting parties?

Under these circumstances, equal respect for persons requires that enforceable morality be determined not by appeal to individuals' contested accounts of rights, but by relying on what they hold in common. In other words, the demands of justice must be determined through '*public reason*', corresponding to the area of overlap between different reasonable interpretations of equal respect. When it comes to establishing enforceable entitlements, we can therefore only assume the moral imperative to protect a set of fundamental rights. Beyond this threshold, equal respect itself prevents us from unilaterally establishing the conditions under which our social arrangements count as just or unjust.

Once this is appreciated, the cosmopolitan's attempt to explain away our intuition about the non-enforceability of global equality can be defeated. Premise (ii) in the cosmopolitan argument—'equal respect (hence justice) demands global equality'—is not satisfied in the world in which we live. Under circumstances of reasonable disagreement, we can only assume that equal respect demands honouring fundamental rights. For the purpose of setting out enforceable entitlements, we may not rely on reasonably contested views on justice in general, including any versions of global egalitarianism in particular.

In sum, since enforcing cosmopolitan global equality would be wrong, and since demands of justice are always rightfully enforceable (*Claim a*), cosmopolitanism does not set out genuine demands of justice.

## **5. Between Cosmopolitanism and Anti-Cosmopolitanism**

So far, I have argued that global equality is not a demand of justice. Justice instead requires global sufficiency, in the form of respect for fundamental rights. This seems to suggest that, by taking the enforceability of justice seriously, we are quickly pushed into the anti-cosmopolitan camp.

This is only partly true. As I shall illustrate in what follows, taking the enforceability of justice seriously does not lead us straight to anti-cosmopolitanism, but rather, it points us in the direction of a view on global justice steering a middle course between global egalitarianism and global sufficientarianism. To make this point, I compare the upshot of my critique of cosmopolitanism with what is probably the most influential anti-cosmopolitan view to date: John Rawls's. Focusing on Rawls's outlook is particularly instructive not only because of its enduring influence on the debate on global justice, but also because it shares a number of concerns with my critique of cosmopolitanism.<sup>xxi</sup>

### *5.1 My Critique of Cosmopolitanism and Rawls's Law of Peoples*

In *The Law of Peoples*, Rawls sets out principles of international justice which are meant to take seriously the existence of disagreement between different political cultures in the global realm. As argued by Leif Wenar, Rawls's concern with taking disagreement seriously may be most plausibly traced to his interest in the justification of coercion.<sup>xxii</sup> Already in *Political Liberalism*, Rawls attempts to elaborate an account of the 'ideals and principles' by appeal to which coercive political power can

be justified to all citizens, despite their holding different conceptions of the good. In *The Law of Peoples*, we may see Rawls as trying to answer a similar question, this time in relation to the international realm. Specifically, he considers what principles justify the use of coercion between *peoples* (rather than citizens) characterized by different political cultures (rather than different conceptions of the good).

The answer Rawls gives to the latter question includes: (i) respect for a relatively thin list of human rights, and (ii) duties of assistance between political communities.<sup>xxiii</sup> The first component of Rawls's theory, respect for a thin list of human rights, allows Rawls to take international pluralism seriously. By excluding certain 'liberal' human rights from his list, he can declare what he calls 'decent societies' as members in good standing of a just international order. Decent societies differ from liberal ones in that they are hierarchically organized. Within decent societies, some discrimination on the basis of religion or social class may be allowed. However, those minorities who are discriminated against are treated 'sufficiently well' for their societies to be included in a just global order.<sup>xxiv</sup>

The second component, the duty of assistance, is meant to allow each society to obtain the necessary resources to become well-ordered (either liberal or decent). When societies are 'burdened' by unfavourable conditions, namely when they lack the social capital and economic means to constitute themselves into well-functioning polities, other peoples have duties to assist them. Unlike cosmopolitans, then, Rawls argues for a world in which all societies have 'enough', rather than a world in which all individuals have 'the same'.<sup>xxv</sup>

As Wenar again explains, Rawls's anti-egalitarian take on international justice is motivated by his concern with the justification of coercion to those who are subject to it. For such a justification to be successful, Rawls must draw its 'building blocks' from the international public culture. Since this is characterized by a concern not with global equality between individuals, but with respect for human rights and assistance between different countries, Rawls's law of peoples articulates the latter moral concerns, not the former.<sup>xxvi</sup> Rawls's principles of international justice, that is, are a product of global public reason.

So much for the description of Rawls's position. Given that Rawls's account of international justice seems animated by the same concerns as those I have raised in my critique of cosmopolitanism—the justification of coercion, the existence of reasonable disagreement, the need to rely on public reason—one may be tempted to conclude that, in fact, my critique of cosmopolitanism implicitly entails something like Rawls's view. This would not be good news, however, since such a view is known to be affected by considerable difficulties.

Although Rawls is right to insist that a theory of global justice must focus on what entitlements are rightfully enforceable given reasonable disagreement, his account of international reasonable disagreement is unsatisfactory, insofar as it fails to be true to the fundamental commitments of liberalism. His inclusion of 'decent hierarchical societies' within a just global order, and his focus on the interests of peoples rather than on those of individuals, appear at odds with any plausible interpretation of persons' moral equality—something Rawls's critics have repeatedly pointed out.<sup>xxvii</sup>

Luckily, my critique of cosmopolitanism is not premised on an endorsement of Rawls's somewhat 'illiberal' account of international reasonableness.<sup>xxviii</sup> Quite to the contrary, I have explicitly suggested that 'reasonable' means precisely compatible with the moral equality of persons, and that hierarchically organized social systems



would certainly not qualify as instantiating a reasonable account of justice in this sense.<sup>xxix</sup> (Recall the example of Saudi Arabia.)

My critique of cosmopolitanism therefore still retains a commitment to regarding individuals as fundamental units of moral concern. The justification of coercion, on my view, should not be carried out by relying on what happens to be agreed upon within the public international culture, but rather, by relying on the fundamental tenets of liberalism. If the international public culture deviates from those tenets, so much the worse for the public culture. The public reason at play in my argument is not public reason positively understood (i.e. what is *de facto* endorsed by the world at large) but public reason normatively understood (i.e. what anyone committed to equal respect ought to endorse).

### 5.2 Towards Outcome Sufficiency and Procedural Equality

A focus on public reason *normatively understood* implicitly points in the direction of an approach to global justice combining anti-cosmopolitan sufficiency with cosmopolitan equality. From the perspective of this approach, there is a set of requirements—fundamental rights—any social system must satisfy in order to count as minimally compatible with equal respect. These requirements, as we have seen, do not exhaust the demands of justice. However, since other requirements of justice fall within the area of reasonable disagreement, some might conclude that we should remain agnostic about them.

On reflection, this kind of agnosticism turns out to be incompatible with equal respect. This is because, by *de facto* instantiating a certain pattern of entitlements, any given state of the world corresponds to a particular, reasonably contested account of justice. Remaining silent about what justice demands (beyond fundamental rights) means letting *arbitrary power dynamics* decide on our behalf, which is clearly at odds with equal respect. The way decisions about ‘reasonably contested demands of justice’ are made must itself be an instantiation of equal respect.

This suggests that, under circumstances of reasonable disagreement, the demands of justice are partly substantive (to do with particular ‘outcomes’) and partly procedural (to do with the way in which certain outcomes are arrived at). Beyond fundamental rights, the only way to establish who is entitled to what compatibly with persons’ equal moral status is through the creation of fair decision-making mechanisms. If we cannot directly identify what equal respect requires at the level of substantive outcomes (beyond a certain threshold), we must adopt decision-making procedures where outcomes are arrived at in a way that expresses equal respect for all. The presence of reasonable disagreement about what equal respect demands in terms of end-state distribution of resources makes resort to egalitarian procedures a necessary demand of justice itself. This is the family of procedures broadly known as democratic.<sup>xxx</sup>

The upshot of this discussion is that a good liberal theory of global justice will have to comprise the following two components.<sup>xxxi</sup>

- A. *Outcome component*: Establishes a set of fundamental rights giving each individual the opportunity to lead a decent life pursuing her ends and goals.
- B. *Procedural component*: Establishes a set of fair procedures adjudicating between different understandings of what justice, beyond fundamental rights, demands.

The outcome component of justice, on this view, is structurally sufficientarian, just like anti-cosmopolitan principles. A just global order is one in which each individual has the opportunity to lead a decent life, but this does not entail that individuals' life prospects or resource endowments should be equal.

The procedural component, on the other hand, moves away from some of the most prominent versions of anti-cosmopolitanism, in that it requires egalitarian forms of political organization. These forms of political organization might of course vary, but we can certainly assume that they will have to be broadly democratic, by protecting freedom of thought, speech and association, and by giving each individual a roughly equal say in the political decision-making process. Only a system so designed could plausibly express equal respect for all.

This moves us away from Rawlsian anti-cosmopolitanism in two respects. First, it rules out the possibility of a just world order inhabited by hierarchical societies, since, from the liberal perspective proposed here, procedural equality is a *sine-qua-non* of justice. Second, it calls for the establishment of egalitarian procedures at the global level, capable of adjudicating between different accounts of what justice—beyond respect for a set of fundamental outcome and procedural rights—requires. The outcome of such procedures will then be enforceable, but its enforceability will not rest on its correspondence with an independent account of justice, but rather on its procedural pedigree. For example, if cosmopolitan global equality were the outcome, its enforceability would rest on it being selected through a certain procedure, not on its independent moral correctness.

Offering a complete picture of what a just world, according to this account, would look like goes well beyond the scope of this chapter. Obviously, the existing world falls short of this ideal, and considerable institution-building and reform would be necessary in order to bring it closer to it. The important point, for present purposes, is that if justice is grounded in equal respect for persons *qua* autonomous agents, and if principles of justice are always rightfully enforceable, then we have some reason to believe that the integrated—substantive cum procedural—approach I have sketched is superior to both cosmopolitanism and its rivals' views.<sup>xxxii</sup>

## 6. Would Cosmopolitans Really Disagree?

Before concluding, let me consider an objection cosmopolitans are likely to raise. Succinctly stated, the objection claims that the integrated—outcome sufficientarian and procedurally egalitarian—approach I have proposed is one cosmopolitans themselves *already* endorse. This being the case, the positive lessons to learn from my discussion are trivial, and my critique of cosmopolitanism unfair.

To see why this objection is well-grounded, consider an argument recently put forward by a prominent cosmopolitan theorist, often classified as a 'radical' proponent of global equality: Simon Caney.<sup>xxxiii</sup> Caney argues that cosmopolitan institutional design requires:

suprastate institutions charged with protecting persons' fundamental rights (including, for example, their interest in security, a healthy environment, and not suffering from poverty) and mediating fairly between competing ideals of world order.<sup>xxxiv</sup>

To say that this picture of a just cosmopolitan world resembles the one I have sketched in the previous section would be an understatement. In fact, the similarities between Caney's position and mine become even more striking if we look at the argument he offers in support of his conclusion.

First, he suggests that, in order to protect people's most fundamental rights, global institution-building is needed. Without powerful global institutions, it would be impossible to solve the collective-action problems which characterize our globalized world and which constantly put at risk the well-being of its inhabitants. In addition, however, Caney takes notice of the fact that 'above a certain basic minimum, there is profound disagreement about global distributive justice among reasonable and reflective persons.'<sup>xxxv</sup> He then goes on to argue that coercively imposing one particular account of justice on the world at large would be disrespectful towards those who reasonably disagree with it. Consequently, he calls for the need of fair adjudication processes allowing us to arbitrate between different accounts of justice.<sup>xxxvi</sup>

What is interesting about Caney's view is not only its defence of fundamental rights and fair decision procedures at the global level, but the very grounds on which such defence is carried out. Caney does not consider fair decision-making as a *means* to justice. Rather, he believes that it has intrinsic value, grounded in equal respect. The idea is not that fair decision procedures are likeliest to bring about a given ideal of justice, but rather that no such given ideal can be legitimately assumed.

In light of this, it would be easy to conclude that my critique of cosmopolitanism is based on a misunderstanding. Cosmopolitans defend precisely the view I myself am sympathetic to, they just have not made it sufficiently explicit. (Caney being an exception in this respect.) What to say in defence of my argument?

My first reaction is to point out that cosmopolitans cannot 'have their cake and eat it'. If they do indeed agree with me that global justice has both an outcome and a procedural dimension (and hence that global equality *per se* is not a demand of justice), *then* they need to abandon their claim that global equality *is* a demand of justice.<sup>xxxvii</sup> Since the latter is widely regarded as the central commitment of a cosmopolitan moral outlook, at the very least, cosmopolitans are guilty of false advertising.

To this, cosmopolitans might reply that while, like me, they endorse fundamental rights and fair procedures, unlike me, they do not think of them in terms of justice. Instead, they consider them as 'principles of global governance' or 'global institution building'. The success of this response rests on cosmopolitans' ability to vindicate the distinction between (non-enforceable) justice and (enforceable) global governance. This is a difficult task. If justice is not about those rights which may be legitimately enforced, what is it about? If justice does not set out the principles which should govern coercive institutions, then what exactly is its role within morality?

Most importantly, if justice is not about enforceable morality, we must infer that cosmopolitans' work on 'global distributive justice' sets out what people ought to do in their private capacities. Instead of global justice, cosmopolitans are talking about global assistance or charity. Surely, as I already pointed out earlier in my discussion, this would be an uncharitable interpretation of cosmopolitans' aims. Moreover, both cosmopolitan 'principles of institutional design' and cosmopolitan 'principles of justice' are grounded in the liberal commitment to the moral equality of persons, and it would seem odd to believe that persons' moral equality demands both global outcome equality and something which may well conflict with global outcome equality (namely global fair decision-making).

Faced with these claims, cosmopolitans might want to counter that the relevant distinction to be drawn is not one between 'global governance' and 'global justice', but rather one between two different dimensions of justice: political and distributive.<sup>xxxviii</sup> Their global egalitarianism only offers a 'partial' theory of justice,

focusing on the distributive dimension. An *overall* theory of global justice would instead require both a distributive component and a political (procedural) one, as well as an account of how the two should be traded-off against one another.

This is a plausible response, yet one that considerably downsizes the ambitions of cosmopolitan theorizing. This is because, until cosmopolitans establish the relevant trade-off between the ‘distributive’ and ‘political’ dimensions of justice, they cannot, strictly speaking, tell us what global justice demands. If some of their distributive principles (those that go beyond sufficiency) turn out not to be rightfully enforceable, then, as I have argued all along, those principles do not count as principles of *justice* proper. At most, they are candidate inputs within fair decision-making procedures the output of which will tell us what justice demands. Given the centrality that fair procedures would have in an overall account of cosmopolitan justice so conceived, it is surprising that cosmopolitans have given comparatively little attention to them.

## 7. Conclusion

In this chapter, I have argued that cosmopolitan moral principles are not appropriately regarded as principles of justice because they are not rightfully enforceable. Part of the point of my argument has been to bring some conceptual discipline to debates in international normative theory. These debates often revolve around questions of ‘justice’, without giving sufficient attention to the special features of justice as a distinctive kind of moral concern.

In addition, I have shown that taking the enforceability of justice seriously points us in the direction of an approach to global justice which steers a middle course between cosmopolitanism and anti-cosmopolitanism. This approach gives prominence not only to distributive outcomes, but also to the justice-based value of procedures, thus bringing discussions about global justice closer to discussions about global democracy.<sup>xxxix</sup> My critique of cosmopolitanism implicitly contains an invitation to re-orient the debate on global justice, giving greater prominence to procedural considerations within it. Whether such re-orientation is worthwhile still remains to be seen. In this chapter, I hope to have provided at least some initial reasons for believing that it is.

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<sup>i</sup> This chapter was written while I was a fellow at the Swedish Collegium for Advanced Study (SCAS), Uppsala, Sweden. I am grateful to the participants in the workshop on ‘Global Justice and Global Democracy’ (SCAS, October 2011), and to Gillian Brock, for questions and comments.

<sup>i</sup> See Jeremy Waldron, ‘Theoretical Foundations of Liberalism’, *Philosophical Quarterly*, 37 (147) (1987), 127-50.

<sup>ii</sup> On this see See Terry Nardin, ‘Justice and Coercion’, in Alex J. Bellamy (ed.), *International Society and Its Critics* (Oxford: Oxford University Press, 2005), pp. 247-64. This feature of justice has been emphasized by Immanuel Kant, *Metaphysical Elements of Justice: Part I of the Metaphysics of Morals* (1797), translated by John Ladd (Indianapolis/Cambridge: Hackett, 1999, 2<sup>nd</sup> ed.). See also David Miller, *National Responsibility and Global Justice* (Oxford: Oxford University Press, 2007), p. 261, Thomas Pogge, ‘Justice’ in Donald M. Borchert (ed.), *Encyclopedia of Philosophy*, second edition, volume 4, (Farmington Hills, MI: Macmillan Reference 2006), pp. 862–870, and Allen Buchanan, ‘Justice and Charity’, *Ethics*, 97 (3) (1987), 558-75. I have discussed the nature of justice as a special type of moral concern (as opposed to charity) in ‘Justice, Charity, and Misery: What, if Anything, is Owed to Haiti?’ (ms.).

<sup>iii</sup> I am here assuming that the transaction between Alfred and Bill is not only legally, but also morally, just.

<sup>iv</sup> John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1999 rev. ed.), Robert Nozick, *Anarchy, State, and Utopia* (Oxford: Blackwell, 1974).

<sup>v</sup> Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge: Polity, 2001), p. 140.

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<sup>vi</sup> See the argument in Michael Blake, 'Distributive Justice, State Coercion, and Autonomy', *Philosophy and Public Affairs*, 30 (3) (2001), 257-96, and Laura Valentini, 'Coercion and (Global) Justice', *American Political Science Review*, 105 (1) (2011), 205-20. This view, I believe, can be more generally traced back to Kant.

<sup>vii</sup> The label luck-egalitarianism has been famously coined by Elizabeth Anderson, 'What Is the Point of Equality?', *Ethics*, 109 (2) (1999), 287-337. Versions of this view have been defended by Richard Arneson, 'Luck Egalitarianism and Prioritarianism', *Ethics*, 110 (2) (2000), 339-49, and G.A. Cohen, 'On the Currency of Egalitarian Justice', *Ethics*, 99 (4) (1989), 906-44.

<sup>viii</sup> Cf. Christian Barry and Laura Valentini, 'Egalitarian Challenges to Global Egalitarianism: A Critique', *Review of International Studies*, 35 (3) (2009), 485-512, pp. 487-8.

<sup>ix</sup> For this distinction see Andrea Sangiovanni, 'Global Justice, Reciprocity, and the State', *Philosophy and Public Affairs*, 35 (1) (2007), 3-39, pp. 5-6.

<sup>x</sup> Charles Beitz, *Political Theory and International Relations* (Princeton, NJ: Princeton University Press, 1999 rev. ed.), Thomas Pogge, *Realizing Rawls* (Ithaca: Cornell University Press, 1989), and Darrel Moellendorf, *Cosmopolitan Justice* (Boulder, CO: Westview Press, 2002).

<sup>xi</sup> See e.g. Simon Caney, *Justice beyond Borders: A Global Political Theory* (Oxford: Oxford University Press, 2005) and (arguably) Kok-Chor Tan, *Justice without Borders: Cosmopolitanism, Nationalism and Patriotism* (Cambridge: Cambridge University Press, 2004).

<sup>xii</sup> See e.g. Thomas Pogge, 'Cosmopolitanism and Sovereignty', *Ethics*, 103 (1) (1992), 48-75, p. 49.

<sup>xiii</sup> From the perspective adopted here, then, Gillian Brock's *Global Justice: A Cosmopolitan Account* (Oxford: Oxford University Press, 2009) does not offer a strictly 'cosmopolitan' view. In fact, Brock's version of cosmopolitanism seems close, at least in substance, to the type of approach to global justice I shall sketch towards the end of this chapter (emphasizing outcome sufficiency and procedural equality). I am, however, not entirely clear about how the procedural and outcome components of justice are meant to relate to each other on Brock's view.

<sup>xiv</sup> See David Miller, *National Responsibility and Global Justice*, ch. 2.

<sup>xv</sup> For an exception see Richard Arneson, 'Democracy is not Intrinsically Just', in R. Goodin, K. Dowding, and C. Pateman (eds), *Justice and Democracy* (Cambridge: Cambridge University Press, 2004), pp. 40-58, and 'Defending the Purely Instrumental Account of Democratic Legitimacy', *Journal of Political Philosophy*, 11 (1) (2003), 122-32.

<sup>xvi</sup> This is certainly true in Rawls's case, though not in Cohen's.

<sup>xvii</sup> See Tan, *Justice without Borders*, ch. 2, on the special nature of justice (although its enforceability is not particularly emphasized).

<sup>xviii</sup> I have offered a more comprehensive defence of the argument put forward in this section, though in the context of debates about domestic justice, in Laura Valentini, 'Justice, Disagreement, and Democracy', *British Journal of Political Science* (forthcoming). See also my discussion of the relationship between justice and legitimacy in 'Justice, Legitimacy, and the Global Order: A Liberal Account', *Critical Review of International Social and Political Philosophy* (prepared for inclusion in a special symposium). References to the vast literature on democracy on which my argument draws can be found in these other papers.

<sup>xix</sup> The notion of 'reasonable disagreement' is famously discussed by John Rawls in *Political Liberalism* (New York: Columbia University Press, 1996). In his work, Rawls discusses disagreement about different conceptions of the good in particular, without focusing so much on disagreement about justice. Jeremy Waldron has explicitly extended the Rawlsian framework to disagreement about justice in his *Law and Disagreement* (Oxford: Oxford University Press, 1999).

<sup>xx</sup> This is what I elsewhere call 'thick' reasonable disagreement, namely disagreement which concerns not merely the substance of what justice requires, but also the truth conditions of statements about justice. See Valentini, 'Justice, Disagreement, and Democracy'.

<sup>xxi</sup> John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999).

<sup>xxii</sup> Leif Wenar, 'Why Rawls Is not a Cosmopolitan Egalitarian', in David Reidy and Rex Martin (eds), *Rawls's The Law of Peoples: A Realistic Utopia?* (Oxford: Blackwell, 2006), pp. 95-113. I am aware of the existence of many competing interpretations of Rawls's work on international justice, and it is beside the point of this chapter to review them all. I am here relying on what strikes me as a plausible interpretation, and one that is certainly of relevance to the argument I have developed. Whether this interpretation is the most in line with what Rawls *himself* wanted to say is something on which I remain agnostic.

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<sup>xxiii</sup> Rawls's Law of Peoples in fact contains eight principles (including principles of just war conduct). Here I only focus on the two which strike me as most relevant to the present discussion. See *The Law of Peoples*, p. 37.

<sup>xxiv</sup> Rawls, *The Law of Peoples*, p. 75.

<sup>xxv</sup> Rawls, *The Law of Peoples*, Section 15.

<sup>xxvi</sup> Wenar, 'Why Rawls Is not a Cosmopolitan Egalitarian', pp. 102-4.

<sup>xxvii</sup> The literature on Rawls's outlook on international justice is vast, and many different authors have raised the concerns I have briefly summarized in this paragraph. Some representative critics are: Thomas Pogge, 'Critical Study: Rawls on International Justice', *The Philosophical Quarterly*, 51 (203) (2001), 246-53; Andrew Kuper, 'Rawlsian Global Justice: Beyond the Law of Peoples to a Cosmopolitan Law of Persons', *Political Theory*, 28 (5) (2000), 640-74; Kok-Chor Tan, 'Liberal Toleration in Rawls's Law of Peoples', *Ethics*, 108 (2) (1998), 275-95 and Simon Caney, 'Cosmopolitanism and the Law of Peoples', *Journal of Political Philosophy*, 10 (1) (2002), 95-123.

<sup>xxviii</sup> The most comprehensive critique of Rawls in this respect is offered by Kok-Chor Tan, *Toleration, Diversity, and Global Justice* (University Park, PA: Pennsylvania State University Press, 2000).

<sup>xxix</sup> On this see also Kok-Chor Tan, 'Two Conceptions of Liberal Global Toleration', *The Monist*, 94 (4) (2011), pp.

<sup>xxx</sup> See Valentini, 'Justice, Disagreement, and Democracy'.

<sup>xxxi</sup> In this rendering of justice as also having a procedural (and not just 'outcome') dimension I am indebted to Emanuela Ceva, 'Beyond Legitimacy: Can Proceduralism Say Anything Relevant about Justice?', *Critical Review of International Social and Political Philosophy* (forthcoming).

<sup>xxxii</sup> I have explored the institutional implications of this view at greater length in 'Justice, Legitimacy, and the Global Order'.

<sup>xxxiii</sup> Simon Caney, 'Cosmopolitan Justice and Institutional Design: An Egalitarian Liberal Conception of Global Governance', *Social Theory and Practice*, 32 (4) (2006), 725-56. Caney also approvingly cites Thomas Pogge's, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge: Polity Press, 2002), ch. 7 as setting forth a somewhat similar view. Caney's more 'radically egalitarian' views are articulated in his *Justice beyond Borders*, esp. ch. 4.

<sup>xxxiv</sup> Caney, 'Cosmopolitan Justice and Institutional Design', p. 725.

<sup>xxxv</sup> Caney, 'Cosmopolitan Justice and Institutional Design', p. 730.

<sup>xxxvi</sup> Caney, 'Cosmopolitan Justice and Institutional Design', p. 734.

<sup>xxxvii</sup> As I mentioned in an earlier endnote, Gillian Brock already does this, so her account of global justice is not susceptible to the criticisms advanced here.

<sup>xxxviii</sup> Caney himself draws this distinction in his *Justice beyond Borders*, chs. 3 and 4, as does Tan in his *Justice without Borders*, p. 5.

<sup>xxxix</sup> For discussion of the relation between global distributive justice and global democracy see Simon Caney, 'Cosmopolitanism, Democracy and Distributive Justice', *Canadian Journal of Philosophy*, suppl. Volume, 31 (2005), 29-62.