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Third Party Duty of Justice*

Combatting Grave Human Rights Violations

ABSTRACT: This paper explores the theoretical basis of the third party's duty of justice as to grave human rights violations, presenting role obligations as the best complement to the literature. It begins with discussions on agents of justice in duty-based theories, notably O'Neill's account on global justice, and rights-based theories, which are both included in the institution-centred perspective. I claim that these studies have failed to consider an individual duty bearer's motive, autonomous reasoning and integrity in relation to justice, all of which constitute serious lacunae for the effective accomplishment of responsibility. To supplement, I introduce the distinction between responsibility and commitment, and acknowledge that combining the two is the desirable condition for recognising the duty of justice. Finally, I argue that the role obligations undertaken through personal acceptance of an institution-based role or a commitment-based role related to human rights norms adequately explain third parties' duty to protect others from serious harm.

Keywords: agents of justice, role of obligation, duties to aid, global justice, international human rights, businesses and human rights

Schlagworte: Justizangestellte, Verpflichtungsregeln, Hilfspflichten, globale Gerechtigkeit, internationale Menschenrechte, Unternehmens- und Menschenrechte

1. Introduction

If an elephant has its foot on the tail of a mouse and you say, 'I am neutral', the mouse will not appreciate your neutrality.¹ This statement must be sensible from the mouse's perspective, but one of the questions surrounding justice is what kind of reasoning obliges bystanders to stop the elephant. Humanitarian consideration is often referred to when rescuing a person in acute danger, for natural or prudential reasons. While I acknowledge the role of humanitarian duty that plays out between bystanders and victims, this paper focuses on the role of justice – particularly the role of agents of justice, as duties of justice are paradigmatically enforceable and more stringent as a basis for effective institutions.

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1 Desmond Tutu, quoted from *Oxford Essential Quotations*, 5th edition, ed. S. Ratcliffe, 2017.

This paper scrutinises two sides of the current situation of global human rights.² One side shows that the idea of international justice has been progressively institutionalised under ideals led by the United Nations, prominently human rights norms addressed to states since World War II, and notably, recent trends towards human rights due diligence conducted by private actors. Although the prevalence and degree vary, the global consensus on the normativity of human rights formally and informally leads non-governmental organisations (NGOs) and private businesses through guidelines.³ A kind of global code is then observed, which is used by various social actors transnationally in the daily legal communication.⁴ The other side shows that while international law is expected to address grave human rights violations that occur internationally in a war or even domestically, when relevant national legal systems frequently fail to adopt effective measures, the ideal of human rights results in ‘an empty promise.’⁵ There is global injustice in the sense that just institutions do not exist, or the background order is clearly unjust.⁶ Even most recently, nameless cruelties are taking place in the Uyghur Autonomous Region in China, and it hardly constitutes the only instance in the world.⁷ When violent oppression occurs with the country’s government or a foreign country as the oppressor, the practical importance of a foreign third party’s intervention increases. Such grave human rights violations as killings, tortures, rape and forced female sterilisation have been criticised by various foreign governments and public and private entities, including NGOs, media and influential figures, with no prospect of rectifying them domestically. Leaving aside how well their measures have worked, never before has third-party intervention been more critical than today.

- 2 In the debate over how the concept of human rights should be understood, discussions in this paper subscribe to the ‘political’ or ‘practical’ conception upheld by prominently Joseph Raz and Charles Beitz, going against the ‘naturalistic’ conception developed by Allan Gewirth and James Griffin, among others. Namely, this paper presupposes that human rights must necessitate ‘impartial, efficient, and reliable’ institutions to enforce the rights. Without such fair institutions and procedures, attempting to enforce the rights may risk doing much harm due to haphazardness or arbitrariness. See Joseph Raz, *Human Rights in the Emerging World Order*, in R. Cruft, S. Matthew Liao, and M. Renzo (eds.), *Philosophical Foundations of Human Rights*, 2015, 228–229. Considering that the criteria to measure the enforceability is indeterminate in the real world, while the practical conception presupposes a rigid enforceability of human rights, this paper dubs various levels of human rights practice in institutional settings as human rights *norms* to cover the flexible enforceability.
- 3 Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework (A/HRC/17/31, 21 March 2011). In particular, the 16th principle stipulates the responsibilities of business enterprises.
- 4 Klaus Günther calls this kind of code ‘a universal code of legality’. It is a legal meta-language which contains basic legal concepts, including the concept of rights, and it already works in transnational legal communication (Klaus Günther, *Legal Pluralism or Uniform Concept of Law? Globalisation as a Problem of Legal Theory*, *NoFo* 5 (2008), 16). By its extension, I understand justice concerning grave human rights violations as a legal meta-language.
- 5 Cf. Emilie M. Hafner-Burton and Kiyoteru Tsutsui, *Human Rights in a Globalizing World: The Paradox of Empty Promises*, *American Journal of Sociology* 110 (2005), 1373–1411.
- 6 Kok-Chor Tan, *Personal Responsibility and Global Injustice*, in: *The Oxford Handbook of Global Justice*, ed. T. Brooks, 2020, 474.
- 7 Since 2017, Myanmar’s military crackdown on the Rohingya has been another serious case. As of writing in 2022, gross human rights violations are being committed in Ukraine by the Russian government’s armed forces.

The term *third parties* can be ambiguous in its extensions, but in this paper, it includes those who are not direct aggressors nor direct victims.⁸ As discussed in a later section, third party agents who contribute to justice are not only institutions, but also individuals. A simple category of third party individuals concerns officials, for example, those who are working for Magnitsky legislation. Legislation derived from the idea of prohibiting human rights abuses is supposed to be a task for the congress or parliament of each territory in contemporary society, but the actual measures to perform the task eminently bear on individual officials who are conferred power by these institutions.⁹ Another example is the origin of Amnesty International, where a British lawyer who responded to oppression in a foreign country started a campaign for justice for the freedom of conscience. This case suggests that a person who has or had a certain status conferred by an institution can effectively work regardless of his actual belonging to a specific organisation. A noteworthy example of individuals is businesses following human rights norms, such as people in UNIQLO, which publicly commits to respecting human rights in their supply chain. When the business suspended operations in a country stating that they objected against human rights abuses caused by the government of that country, there were persons who conducted due diligence and delivered the statement. Apparently, the roles of these individuals have been indispensable to sustaining justice.

Although there are various types of injustice of different degrees, this paper focuses on grave human rights violations as an unquestionable instance of injustice. Owing to this focus, this paper will evade the controversy between realists and non-realists over the nature of morality. It will neither address the conflict between different demands of thin/thick justice, such as a conflict between law compliance and avoiding outrage against human dignity – based on this understanding, a military official who obeys the order to attack and is therefore responsible for a massacre is against the duty of justice without further discussion. Since I subscribe to the practical conception of human rights and accept the value theory of Raz summarised later, the injustice at issue originates primarily not from the breach of rights itself, but from destroying of the value of the agency of the rights-holder. As Raz's ideas surrounding reasons and values are inspiring extensively, I will use his concepts and terms here and there. Besides, throughout this paper, I will use the key terms *duty* and *obligation* interchangeably.

As typical duties of justice surrounding human rights violations involve an interaction between bilateral parties, that is, the relationship between an aggressor and a victim, the current trend of the study shows that the bilateralism paradigm of international

8 The direct subject of the aggression is distinct from those who are adversely affected as a result of the aggression. Also, I assume the traditional tort requirements, which require intentionally infringing rights. Accordingly, the UN and states that have concluded the relevant multilateral treaties, but are not directly subject to intentional violations, are also referred to as third parties.

9 In contrast, private citizens advocating such legislations can be understood as being motivated by humanitarian or other types of duties. The case of Magnitsky legislation illustrates a distinction, albeit crudely, between the duties of justice pursued in an enforceable and impartial institution, and humanitarian and other kinds of duties that occasionally impel private citizens to take action.

law has been transformed remarkably under the concept of the common interest.¹⁰ Although the circumstances of global injustice call for investigating justice of a third party, the moral grounds for this shift have not yet been firmly established. I will later argue that it is partly because the dimension of responsibility to aid and to protect discussed in the literature, which implies the demands made on a third party, nevertheless do not consider the characteristics of an individual agent. The question of agents of justice has been relatively neglected in the literature, unlike the questions of the currency, pattern and scope of application of justice. However, the significance increases when we study the international order where the various informal actors can contribute and are actually vital to realising justice. Hence, considering the contrasting sides of global human rights and the increasing significance of contemporary third party intervention, this paper explores the theoretical basis of the third party's duty in the context of global justice, particularly in the question of agents of global justice. The highlight of the third party's duty as a distinctive category will illuminate both a triparty relationship and an agent-considered dimension in the structure of the duty of justice.

In this perspective, I reframe discussions made in the literature and reveal a gap therein. To consider the occurrence of injustice that cannot be remedied within the borders, global justice theorists have paid much attention to economic justice, targeting poverty and inequality at the global level. I will argue that the rationale of the duty of economic justice can apply to the context of grave human rights violations through the refinement of Onora O'Neill's duty-based theory, along with the discussion of the rights-based theories. Although their approaches are opposing at a glance, these theories are aligned in that they aim to specify and arrange primarily institutions that have the capacity to resolve injustices. Hence, I call the perspective both duty-based and rights-based theorists take 'the institution-centred perspective.'

While admitting the merit of the institution-centred perspective, I claim that it fails to delve into individual agents who are dependent on institutions (here, 'agents' in a wide sense refer to both institutional and individual actors and in my argument, 'agent individuals' exclusively refer to individual actors). Overlooking the gap between a duty of an institution and that of an individual who holds a role in the institution – namely, *an agent individual with a role* – may involve at least three interrelated problems. First, the institution-centred perspective potentially alienates the motivation of third-party persons by treating them as passive duty-bearers. It also fails to adequately account for how individuals with superior capacity may fulfil their duties through their autonomous reasoning. Moreover, the institution-centred perspective does not provide a scheme to grab the diverse practices in which agent individuals perform the duty of justice as part of expressions of personal integrity across institutional differences, or even outside their organisations. It is crucial to supplement the gap between an institution and an agent

10 As the first case in which the International Court of Justice refers to obligation *erga omnes*, see *Barcelona Traction, Light and Power Case* [1970] ICJ Rep 32. The transformation of the bilateralist paradigm of international law appeared in Article 42 (b)(ii) and Article 48 of the International Law Commission's (ILC) Draft Articles on Responsibility of States for Internationally Wrongful Acts (2001).

individual, as it can prove to be serious lacunae in research when we consider the contrasting sides of global human rights violations; this is because continuing human rights violations are the situations where laws and regulations are either insufficient or, where they exist, ineffective. The question of the duties of justice owed by individuals has arisen, as Kok-Chor Tan points out, particularly when the need for urgent response to injustices requires personal efforts before just institutions are created.¹¹ While studies on global justice only recently started to investigate the duties of justice from the individual perspective, they have paid scant attention to the agent individuals who hold *social roles*, notwithstanding their potential and actual significance.¹²

To explore the obligations of third parties from the perspective of agent individuals with roles, the discussion in this paper is as follows. First, I examine the idea of the agent of justice in O'Neill's duty-based approach, and the rights-based approach to global justice (2). I note the problems left by both approaches included in the institution-centred perspective, and will claim that this perspective has limitations regarding the duty bearers' personal viewpoint (3). In acquiring the view to cover the limitations, one's responsibility and commitment are introduced as conditions for recognising duties (4). Then, with the aim of proposing an alternative, I will examine the concept of role obligations, arguing that the duties that one might undertake by accepting one's role can combine responsibility and commitment (5). Finally, it presents role obligations as a desirable type of the third party's duty of justice (6).

2. Third Party Agents of Justice

Global justice has been largely discussed as distributive justice concerning the relationship between the affluent and the poor.¹³ While the main questions of global distributive justice surround the currency, scope of application and site of justice,¹⁴ the recent trends

11 Cf. Kok-Chor Tan (footnote 6), 480.

12 For example, as discussed in the following sections, Colin Hickey and his colleagues present the issue as the *commitment* of individual agents of justice. Colin Hickey, Tim Meijers, Ingrid Robeyns, Dick Timmer, Agent of Justice, *Philosophy Compass* 16 (2021), 1–11. Simon Caney recently argued two types of rights to resist global injustice that are held by individuals. His argument is instructive in explicating the immediate and direct merits of individuals' actions, but his focus is primarily on those who are denied what they are entitled, and he did not provide a reason why others have positive duties to aid those engaged in justified resistance. Simin Caney, The Rights to Resist Global Injustice, in: *The Oxford Handbook of Global Justice*, ed. T. Brooks, 2020, 510–535 at 531m15. When Monique Deveaux discusses the agency of the poor in poverty reduction efforts, she considers not only institutions but also individuals as agents of justice. However, her focus is the empowerment of the global poor themselves, not of other parties. Monique Deveaux, The global Poor as Agents of Justice. *Journal of Moral Philosophy*, 12(2) (2015), 125–150.

13 For the arguments and debate arising since the 1970s, see generally, Miller. Thom Brooks, Introduction, in: *The Oxford Handbook of Global Justice*, ed. T. Brooks, 2020, 1.

14 Particularly, the scope of application is a distinctive question in global justice. Cosmopolitan theories have been developed by claiming that a cooperative system actually exists at the global level (e.g. Charles Beitz, *Political Theory and International Relations*, 1999, 127–169), or by extending the scope of justice to be global, including all of humanity (e.g. Peter Singer, *Famine, Affluence, and Morality*, *Philosophy & Public Affairs* 1, 1972, Simon Caney, *Justice Beyond Borders: A Global Political Theory*, 2005, 35–40). In contrast, statist

develop another element of justice theory – the question of agents. The relative negligence of the question of who to realise justice stemmed from the assumption of states as primary agents. According to O’Neill’s distinction, *primary agents* of justice typically have some means of coercion, whereby they have certain control over the action of other agents and agencies. In contrast, *secondary agents* of justice contribute to justice by meeting the demand of primary agents, without powers and capacities to reassign or adjust tasks and responsibilities.¹⁵ As she points out, states are regarded as primary agents to institutionalise the idea of justice through a large formal structure, and have been addressed in international agreements since the structure of UN-centred governance began to be pursued after World War II.¹⁶

However, when we envision the extension of justice in the global dimension, states sometimes do not effectively work to meet the demands of justice beyond borders. There are two ways states may fail – rogue states can be too corrupt to use their power towards achieving justice, or other states can be too weak to act as primary agents of justice.¹⁷ In these cases, non-state actors, such as NGOs, transnational corporations, global social movements, as well as what she elsewhere calls ‘networking institutions’ that link dispersed persons, officials and institutions, are more promising agents as far as they have an adequate set of capabilities.¹⁸ Thus, O’Neill maintains that rather than territorial relevancy or types of agency (moral, legal, political, etc.), types of constraints and capabilities of agents are criteria of agents of justice; most especially, to be a primary agent of justice, the competence, *not* their motivations matter.¹⁹

Her prioritisation of identifying capable duty-bearers is rooted in a critique of the rights-recipient-based approach in both intellectual discourse and practices. She criticises the rhetoric of rights in human rights treaties, as only a proclamation of rights will be indeterminate and ineffective about what needs to be done.²⁰ On this point, rights-based theorists would rebut that they also offer the theory to allocate duties. When they argue for institutions that secure rights, regardless of whether it is a security right or a subsistence right, they incorporate corresponding ‘waves’ of duties into their rights-

argue that justice is not applicable at the global dimension owing to the lack of a cooperative relationship with the nations of other countries (e.g. Thomas Nagel, *The Problem of Global Justice*, *Philosophy & Public Affairs* 33 (2005), 58–64, Andrea Sangiovanni, *Global Justice, Reciprocity, and the State*, *Philosophy & Public Affairs* 35 (2007), 20–35). This paper does not take up the question of scope but the studies on the question of agents are correlated with it. They assume that the scope of justice can be expanded beyond borders. Note that O’Neill, an author to whom my discussion owes, avoids the term ‘global justice’ and uses ‘transnational justice’, because the former term seems to beg questions by presupposing that the topic under discussion is a single regime of justice for the world (Onora O’Neill, *The Bound of Justice*, 2000, 115). Yet, I use *global justice* for consistency in this paper.

15 Onora O’Neill, *Justice Across Boundaries*, 2016, 178.

16 *Ibid.*, 179–181. Typically, the Universal Declaration of Human Rights of 1948 shows clearly that the primary addressees are states (Articles 13–15).

17 *Ibid.*, 179.

18 *Ibid.*, 157–159, 168, 189; O’Neill (footnote 14), 182.

19 O’Neill (footnote 15), 192.

20 *Ibid.*, 183.

based theory.²¹ Simply put, the best-specified institutions for implementing rights will identify both rights and duties. Pogge's example of live-in servants treated inhumanely shows that rights-holders are secure when they are empowered in their own rescue based on the knowledge of their rights.²² In this line of thought, Shue argues for an institutional arrangement that gives the rights-holders continued secure access to what they have rights to.²³ Admittedly, empowerment for rights-holders is a significant function of rights that is not replaceable with that of duties, but if an ill-treated servant was considered to be an agent of justice, that would be too demanding. The inquiry into who owes the duties of justice must remain to be a subject of primarily the duty-based account.

The observations of rights-based theorists, still, complement O'Neill's account, which requires slight adjustments to address grave human rights violations. The potential limitation of O'Neill's account comes from her contrast of two types of rights: while the intervention to infringement of rights concerns a tripartite relationship, the relationship between the rights-holder and the supplier, in terms of goods and services, is a two-party one. In her comparison, identifying the infringement of a right not to be tortured and the perpetrator may be apparent, while it will be obscure whether there is any perpetrator in the failure to realise the right to receive maternity care.²⁴ Her aim in highlighting the contrast between rights to liberty and rights to goods and services in some contexts is to draw the reader's attention to the asymmetry, and to urge the need for creating an institutional scheme for the distribution of goods for the latter rights. Hence, although O'Neill's theory, in general, accommodates liberty rights, this contrast itself shows the typical mindset which sidelines the obligations of a third party in relation to violations of liberty rights, due to the focus on the obligations of an institution as well as the perpetrator in response to their violations.

On this point, some rights-based theorists decline the sheer contrast by refuting the dichotomy between negative and positive rights. They claim that a typical negative right, a security right, can also be regarded as a positive right: it is a negative right as it requires others to refrain from assault, and it is also a positive right as it requires others to protect against assault.²⁵ Their scheme then can apply to a case of violations of liberty rights, which require duties of positive actions to refrain from infringing, protect and restore them.²⁶ Nothing in O'Neill's duty-based approach seems to contradict the conception of duty held by both second and third parties, as such, unless we stick to the dichotomy of two kinds of rights, O'Neill's account of agents of justice does not pose a difficulty in discussing third party duties against the violations.

21 Jeremy Waldron, *Liberal Rights: Collected Papers, 1981–1991*, 1993, 203–224. Henry Shue, *Basic Rights*, 2020, 163. In simple contrast with duty-based theory, Pogge is categorised as a rights-based theorist when he discusses human rights. Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms*, 2000, 172.

22 Pogge, *ibid*, 69.

23 Shue (footnote 21), 26.

24 O'Neill (footnote 14), 105, 125.

25 Shue (footnote 21), 38–42, Waldron (footnote 21), 217.

26 E.g. James Nickel, *Making Sense of Human Rights*, 2015, 62, Shue (footnote 21), 153–157.

Then, following O'Neill's pioneering work, the concept of primary agents of justice should be elaborated. John Dryzek and Anna Tanasoca rightly point out O'Neill's negligence: the first is little guidance as to how exactly duties and rights should be discharged and enacted 'on the ground', and the second is real-world actors' question toward the particular distribution of rights and duties.²⁷ Addressing these context-relative agents of justice requires, first, considering the social, economic, political and cultural circumstances that constrain agents' decisions, and second, precisifying abstract moral concepts, prominently rights and duties.²⁸ Considering these, they present a new distinction between 'formative agents' and 'implementing agents' of justice; formative agents of justice are to act towards influencing the scope and context of justice,²⁹ and implementing agents of justice or 'global justice effectors' use resources to realise justice specified by the formative agents. While implementing agents are regarded as equivalent to O'Neill's primary agents of justice, I agree with the authors that we should avoid referring to them as 'primary' agents of justice. As they point out, it is a misleading description because implementing agents are, logically speaking, not primary, as the tasks of specifying justice precede those of implementing justice.³⁰ In my discussion, it is also because the categorisation of primary and secondary agents fails to grasp the initiatives of agents who are both, that is, agent individuals who actively utilise institutions' resources through affiliation but also have an obligation to passively obey institutions' directives.

For the present purposes, Dryzek and Tanasoca's refinement of agents of justice should be further developed in terms of implementing agents. While their analysis of each type of agents, such as experts, intellectuals, advocacy groups and media, offers new contours of global justice, their analysis is primarily for formative agents who can influence the content for global justice. Yet, as I target an obvious iniquitous situation, the specification of abstract justice is not the agenda here. In most cases of grave human rights violation, we agree on what constitutes justice – that is, just securing the rights. Since the more relevant issue is not the contents of justice but how to realise justice, this paper concentrate on the implementing agents that secure human rights.

Regardless of varying details of these authors' views, the discussions sketched above are included in the institution-centred perspective, as I called it, even when they pay attention to types of third party agents: when O'Neill defends the institutional view on justice, which accommodates assigning obligations to specific agents, including the police, courts, taxpayers and so on, she nevertheless does not incorporate the viewpoints of the agent individuals of these institutions.³¹ Likewise, Dryzek and Tanasoca regard implementing agents as organisations with material, political, legal and symbolic resources.³² This realistic view leads to little attention paid to agent individuals who make up these organisations. Moreover, when rights-based theorists suggest the dimension of responsibility to aid and

27 John S. Dryzek and Anna Tanasoca, *Democratizing Global Justice: Deliberating Global Goals*, 2021, 39.

28 Ibid.

29 Ibid., 40, 55

30 Ibid., 41, 53

31 O'Neill (footnote 15), 153–154

32 Ibid., 55

protect, they indeed imply the contribution of a third party per se, and yet do not explicitly address the characteristics of an agent individual. Overall, they primarily aim to specify and arrange institutions that have the capacity to implement justice.

3. Limitations of the Institution-centred Perspective

In contrast to the institution-centred perspective, I will adopt ‘the individual-centred perspective’ in this section in order to show lacunae in the previous studies and thereby indicate the need to incorporate personal viewpoints. To note, when I say *institution*, it has a wider meaning than organisations (e. g. individual hospitals) and networks. Institutions, which commonly refer to complex social forms that reproduce themselves, also include social systems such as the media, the market, academia and national qualification systems (e. g. a national medical system).³³

The institution-centred perspective’s failure to consider personal viewpoints produces three limitations discussed in the following: The first limitation concerns the underestimation of the duty bearers’ motives because of a gap between institutions and agent individuals. As mentioned above, O’Neill does not emphasise the motivation of agent individuals, and other theorists fall into the same bottleneck.³⁴ When Pogge discusses the global injustice of world poverty, he avoids the misleading contrast between third parties and wrongdoers based on his idea of institutional cosmopolitanism that is in contrast to interactional cosmopolitanism: while interactional cosmopolitanism assigns direct responsibility for protecting human rights to other agents who have casual relation to the deprived, institutional cosmopolitanism assigns such responsibility to institutional schemes, which is eventually shared with everyone. In the latter view, the responsibility of persons is *indirect* in that it is *shared* for justice of any practices one corporate to impose.³⁵ The issues of how to bridge institutional schemes and agent individuals as to indirect contribution, as well as how to consider motivations, are left open. Another rights-based theorist, Shue, implies the role of third parties status as *representatives*. At one pole of his combinatorial theory of rights and duties, he upholds a thesis about what ‘people other than the right-bearer’ ought to do *on behalf of* the right-bearer.³⁶ As the duties involved are a consequence of surrogating others, as a matter of course, the potential problem of alienation appears when the allocated burden exceeds the forbearers’ undertaking.³⁷ Thus, to some extent, Shue considers normal human motivation partly because their lives could be consumed by duties, and the expectation

33 I do not intend to give a definition, but common uses of sociological scholars accommodate these examples. For a philosophical theory of institution based on sociological usage, see Seumas Miller, *The Moral Foundations of Social Institutions: A Philosophical Study*, 2019, 12–13.

34 O’Neill (footnote 15), 168, 192

35 Pogge (footnote 21), 176–178

36 Shue (footnote 21), 167. Emphasis added.

37 Ibid., 170.

of someone ‘to pick up whatever others have dropped’ creates a perverse incentive.³⁸ Accordingly, allocations of right-grounded duties have to meet the dual test, that is, the ‘institutional adequacy of specifying the duties’ and ‘individual fairness of assigning the duties as specified.’³⁹ However, fairness itself does not explain how to motivate a person to act for the just status of victims, nor how a person *undertakes* duties.

Second, a concern regarding the gap between the duty of agent individuals and the duty of institutions appears in the means/end reasoning as well. Some rights-based theorists argue that until the means/end reasoning is established, the contents and agent of duties of potential bearers cannot be settled.⁴⁰ The simple reasoning that ‘if there is a need to have x , there must be a duty to provide x ’ is evidently insufficient. Therefore, according to Shue’s view, the means/end reasoning must be ‘strategic’, involving judgment about policies and institutions.⁴¹ However, it is not always true that identifying the means/end comes first, nor that the ‘strategic judgement’ for institutional arrangements is necessarily the best to achieve the rights. Even if the designers of institutions know the best end, they may not take the best way to achieve it. This is especially the case where a nonideal situation prevails in an institution with no effective routines, or wherein an individual expert is epistemically authoritative. To take measures against global injustice, for example, international lawyers can provide technical interpretations for extending the scope of protection under international treaties, or a journalist will report the reality of atrocities at the right timing. These various people’s actions are performed under each person’s professional reasoning. The means are not pre-determined because the experts can advise taking appropriate means in a way that an institutional designer cannot infer or even imagine in advance.⁴²

The third problem with the institution-centred perspective is its failure to grab the consistency of a single person’s actions in and out of his organisation. To roughly formulate how we intuitively understand agents’ behaviour affected or guided by the ideal of justice, I postulate a truism about integrity in the practices of justice. That is, we reasonably expect that a person X, who has a duty of justice to respond to injustice A done against Y for the very reason that X is committed to realising justice, not for a reason related to Y, has a reason to respond to injustices B, C and D as well.⁴³ In a simplified example involving a British lawyer who established Amnesty International, he had worked against injustices within national borders as a part of his duty of justice-connected work, and started working against an injustice in a foreign country in a *consistent* way. My claim

38 Ibid., 172–173.

39 Ibid., 166, 245n38.

40 Nickel (footnote 26), 48–49.

41 Shue (footnote 21), 164.

42 On how experts serve others’ reason by replacing first-order reasons with their advice, see Joseph Raz, *The Authority of Law*, 1979, 21–22. Since this discussion is about epistemic authority, see also the structure of reasons for belief, which is partially common to that of reasons for action. Joseph Raz, *Morality of Freedom*, 1986, 53.

43 Commitment invokes reasons to act as one is committed to acting. It is different from intentions in the sense ignoring one’s commitment can constitute fault, while turning away from intentions may not. Joseph Raz, *The Roots of Normativity*, 2022, 46, 61.

is not strong to say that he would not take action if he were not a lawyer, but to say his education and occupation connected to justice could support the reason for the action. This case suggests that a person who is outside of his organisation, a domestic legal association or firm in this example, can effectively work according to his commitment to justice nurtured by his profession, regardless of his belonging to a specific organisation. An appropriate category of duty needs to explain these cases, which present a consistent commitment to justice that the institution-centred perspective does not explicate.

The assumption of rights-based, not duty-based, theorists indicates how their perspective entails the above limitations; that is, they assume that tasks of philosophy involve questions about the fair assignment of duties when institutional designs need a practical arrangement.⁴⁴ This is primarily a perspective of a designer of an institution where we need justification for *allocating* duties and making someone *bear*, but not the perspective of the agent who *undertakes*. In other words, the two different perspectives represent different views on the nature of reason to respond to injustices: we speak of *allocation* of the duties of justice in an impersonal way without referring to what motivates the agent, whilst we can also explain how people actually have a reason for action toward responding to injustices with interpreting their internal viewpoints. The different perspectives are at times interconnected – when regarding people’s motivation as the conditions for effective governance, policy designers can promote professional behaviours and accordingly achieve their goals more effectively.⁴⁵ This line of thought clarifies why the personal view should be incorporated: by explaining a duty as the guiding reason for action in one’s practical reasoning, a theory can reaffirm and support individuals’ practices for justice. Moreover, focusing on the autonomous reasoning of agent individuals can serve to recognise professional integrity as an effective process towards the value they serve. That is especially the case when professionals have a wide range of discretion concerning their means. For example, it is reasonable for students to think that a teacher who is sincere in her job, placing her priority on her students’ academic ability, can discharge her professional duty better than a teacher who does not commit to professional virtue, if they are competent to a similar extent. This is because we often lack comprehensive regulations or an ex-post assessment system of experts’ complex process of their particular decision-making, and thus, experts’ reasoning is left, at least, partly uncontrolled. To some extent, we have no choice but to surrender our judgment and leave it to the alleged reliable agents without knowing how they deliberate. This fact invokes the need to set up a general normative framework, which enables us to appreciate and evaluate the reasoning of these agents.

Hence, the studies adopting the institution-centred perspective should be supplemented by the individual-centred perspective. At the same time, incorporating personal

44 Cf. Shue (footnote 21), 169.

45 It never means that we can discern a practitioner’s *motives*, which is considered unfeasible, but we see what reason guides their decisions, actions, and professional relationships. Justin Oakley, Role Virtues, Doctor-Patient Relationships, and Virtuous Policy Perspectives, in: *Perspectives in Role Ethics*, ed. T. Dare and C. Swanton, 2020, 160.

viewpoints is not enough to argue for a sensible amount of a third party duty. We need to make the individual-centred perspective consistent with the institutional perspective as well as with the universality of the duty of justice, which is presupposed by the latter perspective; otherwise, it is conflated with an arbitrary personal judgment of justice. For example, an illegal hacker who once invades the networking system under an atrocious dictatorship may justify his action with a justice-based reason against the regime's human rights abuses. How can we judge whether he really follows the duty of justice without descending into value subjectivism, or whether it is a mere abuse of the ideal? There is also concern about relativism in opposition to the universality of the value of justice. Relativism in this sense holds that since we cannot explain why different people perform their duty of justice in incompatible ways, the adherence to a universal, or common, duty of justice would result in chaos or unreliable duplicity.⁴⁶ Even though one's commitment to justice explains the integrity regarding justice in a single person, the universality of a duty of justice among persons does also matter.

The term 'universality of a duty of justice' concerns widely contested issues and requires clarification of my use of the term. The understanding here is only partial and crude and discussed only to overcome the arbitral judgement and relativism in opposition to the universal duty of justice so that we can adequately introduce the personal view. As a preliminary clarification, a universal duty, in general, is often contrasted with a personal duty: while universal duties can disturb one's personal motive, personal duties fail to explain how diverse motives come from the same ideal – in this context, justice.⁴⁷ To reconcile the binary opposition of universal and personal duties, I rely on the idea of the 'value-reason nexus' suggested by Raz. This idea is based on the understanding of the universality of values in a thin sense, that is, evaluative properties are universal if the conditions of their instantiation can be stated without singular reference, and if they have the potential to be instantiated in any place or time.⁴⁸ The point is that reasons track values are universal in a way that values are fully intelligible to people.⁴⁹ Among such reasons, a special type of reason with obligatory force is considered a duty. In this understanding, justice in opposition to human rights violations is intelligible enough to make all understand the reason for different actions, which arise out of the universally instantiating value of justice.⁵⁰

Based on this connection between duties and values, for the purpose of the following argument, I will divide the statement of the universality of duty into a normative and an explanatory statement, using an example sentence, 'X must protect against human rights abuse'. In a normative statement, the universality of the duty of justice refers to

46 Cf. Joseph Raz, *Value, Respect, and Attachment*, 2000, 12.

47 The issue is debated in Bernard Williams, *Moral Luck*, 1981, 1–19, Barbara Herman, Integrity and Impartiality, *Monist* 66 (1983), 233–250.

48 Raz (footnote 46), 54, 60.

49 *Ibid.*, 6.

50 Raz (footnote 46), 215.

reason-giving force of justice in any applicable place, time and person.⁵¹ We can further divide duties of justice mentioned in a normative statement into committed and non-committed ones. Although commitment and non-commitment are conceptually separated, the demarcation is not clear in real world situations, and from that perspective, the difference can have a strong and weak sense. In an explanatory sense, the same sentence, 'X must protect against human rights abuses', is nothing but an outsider's statement of confirmation of a guideline (in a fictional situation, a schoolteacher on Mars says, 'Officials on Earth must protect against human rights abuse').⁵² Since the institution-centred perspective presupposes the normative statements in discussions, and not the explanatory one, for the purposes of this paper, I will also use the term the universality of duties of justice in the (committed and non-committed) normative statement.

In sum, to adequately explain the third party's duty, we must, first, supplement the above-stated limitations by adopting the individual-centred perspective. Second, this explanation should accommodate the universality of the duties that is presupposed by the institution-centred perspective.

4. Two Dimensions of Duty Analysis: Responsibility and Commitment

I will argue that we should address two dimensions of a third party duty in order to take into account both the institutional and individual perspectives. It is instructive to see what Hickey and others present as two dimensions of the agents of justice: responsibility and commitment. To incorporate elements of agency into theorising justice, they assume that most responsibilities for realising justice are regarded as special responsibilities, though some responsibilities might be grounded as general responsibilities. According to their explanation, special responsibilities flow from a particular status or relationship an agent has relative to the recipients of justice.⁵³ They fall into role, remedial, beneficial, capacity, and membership responsibilities, which are not exclusive or exhaustive.⁵⁴ On the other hand, agents' commitment to realise justice concerns the degree to which agents are motivated to pursue justice.⁵⁵ In their example, a government might be responsible for reducing the nation's greenhouse gas emissions, while Greta Thunberg is certainly committed to the effort but might not be responsible.⁵⁶ Based on this distinction, they claim that theorists need to distinguish between the following

51 In the tradition of the internal/external division of reasons (Williams, footnote 48, 110), a duty in the normative statement is understood as a protected internal reason.

52 For the notion of reasons for explanatory purposes, see Joseph Raz, *Practical Reason and Norms*, 1979, 18–19. As for the statements that contain normative terminology, the distinction between the normative and the explanatory senses for the same sentence can correspond to the difference between locutionary force and meaning, as in Hart's application of J. L. Austin's theory. H. L. A. Hart, *Essays on Bentham*, 1994, 217n5.

53 Hickey et al. (footnote 12), 3–4.

54 Ibid.

55 Ibid., 4.

56 Ibid., 2.

types: (i) agents of justice who are responsible for realising justice but not committed to doing so, (ii) agents of justice who are not responsible for realising justice but are committed to doing so, and (iii) agents of justice who are both responsible for and committed to realising justice.⁵⁷ As a necessary category arising from the binary dimension, I add a fourth category, (iv) agents who lack both responsibility and commitment and, therefore, are inactive in justice. In the following, I will argue that a duty can be recognised both in cases (i) and (ii), and accordingly, it is recognised in (iii). Then, we can conceive (iv) as the case where the agent has no duty.

Admitting that the distinction between responsibility and commitment is useful, however, Hickey and others' use of responsibility should be reconsidered. First, general/special responsibility is a misleading divide, particularly in the context of the third party's action for justice. In general, authors regard responsibilities of justice and special responsibilities as potentially opposing categories.⁵⁸ That is, the oppositional model takes the view that the special responsibilities in special roles (typically, friendships or professions) are optional and limited, whereas the responsibilities of justice are owed to everyone whose moral status is assumed to be general and universal.⁵⁹ Even though these are conceptually separable, this divide should not be taken as a permanent separation; otherwise, it is bound to unsuccessfully explain why and how people with special responsibilities in different roles fulfil their obligations towards a common realisation of justice. Given that the ideal of justice is commonly referred to and connected to roles regardless of the diversity of their actions, I do not follow the scheme of general/special responsibility and simply mark the concept of responsibility for justice as the grounds which explain why they are obliged in an impersonal way. According to this characterisation of responsibilities, the five types of responsibility Kickey and others provide should be differentially categorised. Responsibilities based on role and membership involve the agent's identity-relative categories, which constitute a moral landscape for a personal life,⁶⁰ while responsibilities grounded on remedy, benefits, or capacities do not, and they are described as separate impersonal responsibilities. As I will discuss in the next section, one deliberates the responsibilities of her role, considering the rights and duties derived from that role as a package. In contrast, an agent's benefits constitute merely one reason for her duty, and her capacities constitute another. If the reasons based on ben-

57 Ibid., 3.

58 For this terminology, for example, O'Neill discusses special *duties*, not special *responsibilities*. O'Neill (footnote 14) 197. Hickey and others indicate some distinctions between responsibilities and duties, but the difference is a matter of nebulosity and time range. Hickey et al. (footnote 12), 3, n7. I solely use the term *responsibility* consistently in this paragraph for the sake of my discussion based on the distinction between the two.

59 There can be even a conflict between the duty of justice and special duties. For example, role obligations arising from affiliation to a group may be discriminatory against other members of the group and the non-members, to the degree it conflicts with the general duty of justice. Cf. Ronald Dworkin, *Law's Empire*, 1986, 202–203.

60 For example, although Raz does not mention the distinctive category of 'role', he considers that personal meaning in one's life depends on one's 'membership of, and identification with, a wide range of groups, national, religious, professional'. Raz (footnote 46), 34–35.

efits and capacities aimed to explain one's whole practical reasoning, it might convey a distorted picture of our moral life. Thus, capacity and benefit can constitute the grounds of a role responsibility of, for instance, a social corporation, but not *vice versa*.⁶¹

Then, the alternative understanding of responsibility and commitment tells that while the commitment to justice presents a strong normative sense of a duty of justice, the notion of responsibility involves a qualification for the duty of justice that is impartially applied to all relevant agents regardless of their viewpoints. Some authors have investigated, from the institution-centred perspective, what is a just allocation of responsibilities in this sense. According to them, certain moral or legal principles determine and assign these responsibilities to qualified people, depending on their capabilities, rather than their viewpoints. As O'Neill underlines, the action of agents without capabilities would result in *inefficiency* due to the lack of resources and power to achieve the goal. In this view, we see that the literature on agents of justice mainly addresses the dimension of responsibility, which is separated from the dimension of personal commitment.

Compared with responsibility, how an agent's commitment is relevant to a duty must vary, largely bearing on the individual situation. Here are contrasting cases: a vegan who ate meat once may breach her duty, which can reasonably cause denouncement by herself and voluntary vegan fellows. In contrast, a person who commits to counting grass for a negligible reason is not against any duty regardless of her commitment. If commitment and duty are relevant, how do we differentiate between these cases? The difference can be explained by whether the committed object is something of value or not, while we leave the issue of the list of something of value open since the current discussion assumes that abusing human rights is an unquestionable condition of destroying value without further controversial discussions about the justification of value. The values, which would have been realised were it not for such distortions, should be intelligible enough.

The argument for the duties derived from personal commitment is supported by the general idea of the value-reason nexus, which applies to justice in the current discussion as a specific value. According to Raz, agents have two-pronged reasons towards such values: the categorical reason to respect values, which requires, in one way, recognising and preserving the agency of others regardless of their being a friend or stranger, and then the reason to engage with the value in a partial way based on one's commitment.⁶² The premise of this argument is that something of value depends on agents who value them.⁶³ When no one recognises and engages with a value in the world, the value cannot be realised, and in that sense, values depend on agents.⁶⁴ As far as a person commits to a value, the one has a reason to engage such that the value is promoted actively, while eve-

61 Although a benefit is not a necessary constituent of role responsibilities, it is noted that a role responsibility without benefiting the role-holder in both subjective and objective senses suggests that this role responsibility can be a form of certain social oppression or pathology.

62 Ibid., 161–164. Raz elsewhere applies the two-level theory to the case of capacities of rational agents, more specifically. See Raz (footnote 43), 231–232, 235. This explains the subject of this paper, that is, justice concerning human rights violations as the value of protecting others' agency.

63 Raz (footnote 46), 151–158.

64 Ibid., 163.

ryone has a reason to respect, and not disrespect or damage the value at the fundamental level. This explains not only the rationale of commitment-based duties but also how introducing personal commitment addresses the difference between engagement with, and respect for, justice. As mentioned above, a crucial shift from a bilateral relationship to a triparty relationship concerning human rights abuses requires proving a duty to protect against the abuses beyond proving a duty not to violate their rights. The former duty is demonstrated by the two pronged-reasons: the categorical reason for respect, which is fundamental but undetermined about practical choices, and a reason to engage with justice, which lends itself to deciding actions one should take. Such active engagement can be more *effective* in that one's commitment to a desirable end is likely to let one choose optimal means and achieve the goal.⁶⁵

Considering that merely introducing responsibility for justice does not necessarily support active engagement, combining another independent condition, personal commitment, can desirably establish the third party's duty. As Table 1 shows, commitment to justice without responsibility is not qualified and may be inefficient, while responsibility without commitment is passive and may be ineffective. Hence, the best should be the agents with commitment and responsibility. They are both motivated to an end and in suitable positions with the ability to accomplish the responsibility.

Table 1. Two dimensions of recognising duty.

	<i>Responsibility</i>	<i>Non-responsibility</i>
<i>Commitment</i>	Efficient and effective	Inefficient
<i>Non-commitment</i>	Ineffective	No duty

5. Role as a Bridge between Institutions and Persons

To propose obligations falling into the best type of a third party duty stated above, I will introduce the distinct kind of reason derived from roles based on which an agent undertakes an obligation. I will then argue that role obligations mediate institutional duties to personal duties.

Role in this context refers to a social role held by a person in the moral dimension that is lived through primality, but not limited to, institutions. Since Michel Hardimon wrote that the existence and importance of role obligations in the moral life are unnoticed by the ethical mainstream,⁶⁶ the climate had not been drastically changed until recently

65 At the conceptual level, the duty supported by one's commitment without responsibility should be distinguished from supererogation, but the demarcation between the two in realities is blur: on the one hand, sustained commitments could nurture one's duty, on the other hand, one's initially supererogatory acts can generate legitimate expectations of others, and can turn to be one's duty that directs toward others. Cf. Hickey et al. (footnote 12), 6.

66 Michel Hardimon, *Role Obligations*, *The Journal of Philosophy* 91 (1994), 333.

with a few exceptions. Earlier, Francis H. Bradley viewed our moral lives as constituted by duties we have because of how we stand in relation to various others.⁶⁷ Later, Ronald Dworkin examined ‘associative’ or ‘communal’ duties, admitting that those obligations are an important part of the moral landscape: ‘[F]or most people, responsibilities to family...and union or office colleagues are the most important, the most consequential obligations of all.’⁶⁸ Despite such exceptional recognition, the invisibility of roles may be redressed by confronting the tensions between impartial universal morality and role obligations.⁶⁹ Whether a role obligation is not reducible to a personal duty is a contentious issue, with the related issue of whether role morality is fundamental or derivative of general moral theory. I do not aim to directly address these methodological issues, but through the discussion below, I propose that there are merits and significance to holding the distinctive category of role obligations, which is not reducible to either institutional or personal obligations.

Before proceeding, the terminology should be clarified. Following Hardimon’s definition, the term *roles* refer to ‘clusters’ or ‘constellations of institutionally specified rights and duties organised around an institutionally specified social function.’⁷⁰ By being institutionally defined social roles, they are distinguished from biologically defined roles (therefore, we can distinguish, for example, the biological relation of sister, which is defined by biology, from the institutional role of sister, which is institutionally defined.⁷¹). Also, there is a distinction between non-contractual role obligations held without voluntarily signing in (e. g. obligation of a family member or a citizen) and contractual obligations (e. g. obligation derived from one’s occupation). For the context and purpose of this paper, I will concentrate on contractual role obligation, and hereinafter, all mentions of role obligation refer to contractual role obligation unless otherwise I mention.

Hardimon formulates the link between the perception of roles as a social fact and reasons, as the process of ‘role identification.’ To note here is that his scope is limited to institutionally specified roles. According to Hardimon, ‘to identify with a role’ is (i) to occupy the role, (ii) to recognise that one occupies the role, and (iii) to conceive of oneself as someone for whom the norms of the role function as reasons.⁷² Whilst the first stage of occupying the role is factual, this mere fact does not guide actions of the agent. The merit of considering a role-holder’s ‘conceiving of oneself’ lies in interlocking her role

67 Francis H. Bradley, *My Station and Its Duties*, in: *Ethical Studies*, 1876 [digital printed version 2012], 145–186.

68 Dworkin (footnote 59), 195–196. As I will discuss immediately below, the conception of role obligations in this paper differs in that Dworkin takes a more non-conscious view – albeit incorporating ‘the interpretive attitude’ – of communal responsibility, which is defined by the history of social practices (ibid., 197).

69 Tim Dare and Christine Swanton, Introduction, in Dare and Swanton (footnote 45), 1.

70 Hardimon (footnote 66), 334, 354.

71 Ibid., 334. Further, Dare differentiates between socially and institutionally generated roles. That is, institutional roles (e. g. doctors’ role as decided by medical associations) are likely to be more amenable to change, while changing the expectations that constitute social roles (e. g. gender roles) is much harder. Tim Dare, Robust Role-Obligation: How Do Roles Make a Moral Difference? *The Journal of Value Inquiry* 50, 2016, 3.

72 Hardimon (footnote 66), 358.

and reason; at the stage of conceiving of oneself as someone who is subject to role norms, the role obligations and rights and alike have a reason-giving force.⁷³ I discussed that the first limitation of the institution-centred perspective stemmed from the general issue that impartial duties could sacrifice personal social lives. Here I add: that is the case unless any medium adjusts impartial duties to individual lives. The process of one's *identifying with* a role in Hardimon's sense explains how the transmission of impartial duties occurs.

I also widen the scope of Hardimon's account of roles because roles are not only constituted by institutionally specified rights and duties but also by social expectations, although the cases that fall into this category must be limited in the context of grave human rights violations, where agents need resources and power in a large institutional scale. As Tim Dare clarifies, a relevant contested issue of social expectations is whether expectations are triggered by the perception of role-holders, or by the function as understood from the perspective of an ideal observer.⁷⁴ I maintain that social roles constituted by social expectations in the absence of institutional requirements are surmised by the communication of a role-holder's commitment directly to a certain abstract value (e.g. ecology) or indirectly to his role (e.g. active ecologist). This describes a way to choose and shape one's own moral life through active engagement with values without being alienated from or sacrificed by what one is saddled with.

However, for both institution-based and commitment-based roles, a risk of viewing from a role-holder's perspective may be ill-identification, such as the identification with the role of conscripts under dictatorships or that of women in oppressive societies. To use caution against the possible adaptive preference formation occurring from his role assigned in a society, an agent should be able to reject some role-based reasons. This issue is pertinent in the views on whether role obligations are generated by the mere fact that communities have complex social practices of roles, or whether they should be justified.⁷⁵ Given that people can reasonably argue about the proper interpretation or understanding of an institution-based role, roles are considered interpretative.⁷⁶ The same consideration applies to the more ambiguous commitment-based roles: only if the communication of one's reasonably sustained commitment influenced people's expectations, which in turn would affect their choices, the role-related-reasons have obligatory force beyond supererogation. In addition, in a case in which one does not have a specific timing to voluntarily sign on for a role, an assessment of role norms is required, which Hardimon calls 'the principle of reflective acceptability'.⁷⁷ That is, non-contractual role obligations are not morally binding unless the roles to which they attach are reflectively acceptable to the role occupant. That a role recognised as a practice should be justified does not imply that a role delivers normative force, but the continued recognition of the role does.

73 Ibid.

74 Dare (footnote 71), 4.

75 Cf. Tim Dare, *Roles All the Way Down*, in Dare and Swanton (footnote 45), 31–45.

76 For this interpretive view, see Dworkin, (footnote 59), 197.

77 Hardimon (footnote 66), 350. Hardimon refers to non-contractual obligations in this respect, but this observation can apply to contractual role obligations, where, for example, an initial contract is forced.

If conceiving an actual role gives reasons for action to role-holders, an emerging question is whether these role-derived reasons ought to be pursued without balancing other reasons in their deliberation. To this question, it is plausible to think that a role obligation does not occupy an individual's whole moral life, and that in almost all cases there is a discrepancy between institutional and individual role obligations. With a very few exceptions, such as an emperor, an institutional obligation does not correspond with a role obligation or cover all the subdivisions of the role. This discrepancy suggests an autonomous space for a role-holder to reconsider whether the allocated role obligations that are transmitted from the institutional obligation are truly valid. Authors agree on the point that role obligations generated as such are not absolute or conclusive reasons.⁷⁸ I argue that role obligations operate as exclusionary reasons, coined by Raz, that improve conforming to role-holders' reason by excluding the reasons that they would otherwise follow should they not hold the role.⁷⁹ For example, fidelity to a friend, or the expectation of gaining that friend's share, may constitute a reason not to report the friend's embezzlement, all things considered, but one's role obligation as a compliance officer would exclude such otherwise competing reasons. This reduced cost of weighing reasons is similar to what Cooper calls 'normative economy', which emphasises the allocation of scarce cognitive resources when one has to decide among potentially conflicting (normative) reasons.⁸⁰

Aside from the discrepancy between institutions and roles, the dependence between them is also considered. Institution-based role holders cannot assume their role without institutions – a police impersonator is not obliged as a real police officer, because he is not backed up by the institution. In the opposite direction, an individual role occupant may speculate about the responsibilities of both his role and the related institution inasmuch that the identification with the role involves his commitment to the value embraced by them. If individual doctors and journalists of *Médecins Sans Frontières* had not interpreted their occupational role beyond their local office, the widespread institution across borders might not exist. In this sense, an institution also depends on individual role-holders in expanding or creating its function. Certainly, there are some cases in which the distinction between a role obligation and supererogation is arguable, nonetheless, as individuals with power in certain specialised occupations often have elbow room for developing their institution and roles, their discretion should be appreci-

78 David Luban introduces a 'weighing reasons' model (David Luban, *Lawyers and Justice: An Ethical Study*, Princeton University Press, 1988, 132). Other authors, including Christin Swanton and Garrett Cullity, view the structure of a role obligation as the distinctive types of reasons that operate only for restricting deliberation (see papers of Swanton and Cullity, respectively, in Dare and Swanton (footnote 45)).

79 For his gradually updated idea of exclusionary reasons, I subscribe to the explanation (in the application to the context of roles) that a role obligation, as an exclusionary reason, does not exclude all first-order roles and ordinary reasons. It only excludes reasons that conflict with justice-based reasons. Joseph Raz, *Between Authority and Interpretation*, 2009, 144, Raz (footnote 52), 65.

80 Gregory Copper, Roles in the Normative Economy of a Life: in Dare and Swanton (footnote 45), 73. This was originally described as 'psychic economy' by Thomas Nagel (*The View from Nowhere*, 1986, 164), but 'normative economy' is a better, less-misleading expression when reasons and obligations are not reduced to phythological arrangements.

ated in the domain of their role, and be assessed in view of the qualified institutional duties. In this wise, the observation of the institution-role nexus suggests how to bridge individual initiatives and institutionally framed responsibilities.

6. Role Obligation based on Justice

Based on the preceding reflection on role obligations distinctive from, but associated with, institutional obligations, I now demonstrate how the duty of justice, among other duties related to one's role, can be considered salient in the role holder's reasoning. Agent individuals are often directed to follow incompatible reasons concerning their roles. For instance, judges may have a reason to strictly comply with national statutes, which may allow them sometimes to disregard the reason of substantial justice.⁸¹ They may also follow moral or prudential reasons irrelevant to roles. However, my above arguments indicate that all persons have a categorical reason to respect the value of human agency, which directs us to display our respect through acting for the value not to be distorted. What is more, some social role holders are considered to engage with guaranteeing basic human rights more dedicatedly than others in virtue of their commitment. Either way, such basic reasons are so general that we need to discriminate more specific reasons for achieving them. These reasons are distinguished from the fundamental reason, i. e., the source reason for protecting the value from harm, in that they are to serve or facilitate the source reason.⁸² Indeed, under the means-end way of thinking, the actions derived from roles' requirements are often viewed as mere tools of an institutional objective, which have no normative relevance in itself. However, this 'cogs in the machine' view of roles tend to disconnect from the individual role holders' commitment to acting. In contrast, we can take the view that the normative force of source reasons, inasmuch as its stringency, affects reasons to facilitate them. That is, we can still talk about facilitative role-derived reasons as a variation of one's normative reason.⁸³ Accordingly, since facilitative reasons bear on the stringency of and relevance to source reasons, the more acute and evidential the distortion of value, the more clearly some of the reasons based on justice among other role-derived reasons are put in the spotlight. For example, a journalist may find the reason for reporting relevant facts salient, among other competing role-derived reasons, such as the reason for writing more profitable gossip. As conceiving roles carry an exclusionary force,

81 Cullity names this a 'disregardable reason' in professional deliberation. Garrett Cullity, *Deliberative Restriction and Professional Roles*, in Dare and Swanton (footnote 45), 174.

82 The concept of 'reasons to facilitate a goal' is not equivalent to instrumental reasons because the latter is normally considered irrelevant to normative force. Following the concept of facilitative reasons proposed by Raz, a goal can affect facilitative or auxiliary reasons only if that goal is worth pursuing and actually the agent's goal. Joseph Raz, *From Normativity to Responsibility*, 2011, 142–149.

83 A reason why I take the facilitative view, not the instrumental view, is to allow one to evaluate, if necessary, a practical conflict between facilitative reasons in a larger picture in which we should consider their relevance to and stringency of source reasons. For instance, if writing a profitable gossip became the only condition that enables a journalist to sustain his job in poverty, the other role-derived reason might not be protected.

the designated role-derived reason based on justice is protected by virtue of that role, that is to say, it presents itself as a role obligation based on justice.⁸⁴

Such a role approach can overcome the above-stated three limitations of the institution-centred perspective. The first limitation concerned the marginalisation of agents' motives. As a social role is one that a person chooses and can identify with, the associated obligations are supposedly accepted as, at least partly, their own duty. Second, one advantage to formulise distinctive role obligations is to explain and properly evaluate a specialist's reasoning that links her choice of means and personal acceptance of obligations, which is expected to result in the efficient realisation of an end.⁸⁵ Moreover, considering that certain professions and occupations can be viewed as those who are capable of developing their roles, the role-centred approach lends itself to an internal model for envisioning institutional reinforcement and founding.⁸⁶ The third limitation concerned a person's integrity regarding justice, which is particularly relevant to the context of global injustice. Where reliable institutions or systems are not attainable, agent individuals with roles may make a difference. When their roles have been tied to the organisation which claims its responsibility for justice, individuals' continuous endorsement of that organisation, if sound, nurtures their disposition to justice and promotes self-understanding on the part of role agents. The role obligation at this point demonstrates its merits at the margin of discretion particularly at the time of interpretation and application.⁸⁷ With these merits, role obligation marks one distinctive category that appreciates people's integrity as to justice, regardless of the current organisation they belong to.

Another merit of the role approach is to meet the requirement that the individual-centred perspective be consistent with the universality of the duty of justice. That is, the role approach, by bridging the individual and the institution-centred perspectives, precludes personal arbitral judgments and relativism. As the example of an illegal hacker shows, a person's claim to justice may be arbitrary. The response to this worry is that since the roles related to justice are derived from and enhanced by justified social institutions, an illegal hacker does not owe a role obligation in such an impartial institution responsible for justice. Thus, a capricious white knight acting in his private capacity is not considered an agent of justice.⁸⁸ Another concern raised is relativism appearing in

84 More generally, protected reasons for action are reasons for taking the action they indicate *and* for disregarding (certain) conflicting reasons. See Raz (footnote 43), 17–18.

85 Though I do not discuss the relationship between virtues and duties, Swanton's view is sensible to me, to recognise that the virtues surrounding roles, such as role integrity, industriousness, and particularly a disposition toward efficiency, are critical for the function of the institution in which the role is embedded. Christin Swanton, Expertise and Virtue in Role Ethics, in Dare and Swanton (footnote 45), 69.

86 Jorge L. A. Garcia, Roles and Virtues, in: *The Routledge Companion to Virtue Ethics*, ed. Lorraine Besser-Jones and Michael Slote, 2015, 419.

87 In the view that we are each responsible for structural injustice through and under our social roles, Robin Zhen argues that the role occupant pushes the role's boundaries by attempting to influence the way that others carry out their roles. Robin Zheng, What is My Role in Changing the System? A New Model of Responsibility for Structural Injustice, *Ethical Theory Moral Practice*, 2018, 9.

88 Still, it is possible that his action is reasonably observed to interfere with an act of cruelty. It can be an action for justice, like the role of an upright citizen in a fair community, similar to how an ordinary citizen can perform justice in the case of a citizen's arrest.

diverse practices, which may distort the universality of the duty of justice. When two imperious demands under the name of justice are incompatible with one other, whether we really rely on the same basis of the duty of justice would be doubtful. A response to this apprehension bears on the relationship between a source reason and facilitative reasons: on the one hand, the role-derived reasons for action which facilitate the source reason for protecting people from harm are diverse since different roles associated with each institution entail multiple jobs due to a division of labour. On the other hand, role obligations, with exclusionary force, eventually serve the source reason that tracks the universal value. After all, the practical conflicts are reconciled at a profound level. Also, as I added the account of one's commitment-based role obligations, the process of divergent manifestation of the universal duty also applies to this type of role obligation.

Upon the general merit of the role approach, the question of agents of justice can be restated in a narrower view: who has the role obligation to combat grave human rights violations? There are various dimensions of one's acceptance of roles that make one commit to certain values – as a member of family, religious person, or citizen – but not all are necessarily connected with justice, and sometimes a requirement of a social role even conflicts with justice. Regarding institution-based roles, the typical instances of roles connected with justice are those of public officials, and in particular, legal officials. Suppose that a retired judge works as an international defence counsel because, according to her explanation, her commitment to justice with respect to human rights has been fostered throughout her career. In that case, the reason she provides is intelligible enough in terms of both institution-based and commitment-based role obligations related to justice.

While it is easy to identify paradigmatic instances of the institution that works against human rights violations, the conceptualisation of the identification varies depending on which theory is adopted. What seems relevant here is the idea of 'internal statements' devised by H. L. A. Hart. Those statements are introduced as a sign of a speaker's *internal point of view* of rules accepted as guiding standards of behaviour.⁸⁹ Those statements, for example, 'I have an obligation to repay', are normative statements, which contain normative terminology such as *obligation*, *should*, or *ought* and present themselves in criticism against deviation, demands for conformity, and recognising that criticism and demands are justified.⁹⁰ One may pose a question whether a speaker's normative statement represents his authentic endorsement of a norm or not, but we can leave the question open by simply distinguishing them, as I described, as the committed and the non-committed statements, respectively.⁹¹ In the application to the context of justice, we can suppose either that a committed normative statement represents one's sincere endorsement which harmonises with a speaker's integrity concerning justice; or, a non-committed normative statement may only indicate the reason attributed to

89 H. L. A. Hart, *The Concept of Law*, 3rd edition, 2012, 102–103, 218.

90 *Ibid.*, 57, 86.

91 For this contested question, see Hart (footnote 52), 160, 267, Joseph Raz, Hart on Moral Rights and Legal Duties, *Oxford Journal of Legal Studies* 4 (1984), 131.

the speaker regardless of her acceptance. In both cases, when people deliver normative statements – for example, ‘we should protect against human rights violations’ – in relation to certain human rights norms or the established practices that imply such norms, it is observed that they have the relevant reason for action at the applicable place and time.

Some critics will object that because Hart presupposes that internal statements are used by those who accept the rule(s) of recognition as a criterion of a valid legal system,⁹² whose existence is doubtful in the global sphere, my argument does not work for injustices occurring in another society. However, as Günther shows, the concept of an internal point of view can apply to the global practice of legality through the legal meta language, which already works in transnational legal communication and have a certain factual validity independent of given legal systems.⁹³ Going further, I concentrate on the viewpoint of individual role holders, who putatively conform to role obligations that are converted from the institutional obligations responsible to justice. In this perspective, if individuals with roles share the global code of human rights, which is peculiarly penetrated among contemporary democratic countries, their normative statements manifest their internal viewpoint regarding human rights norms, or at least, their superficial compliance with them. Either way, normative statements signify that they are considered agent individuals of justice.

When we track this sign of the agents of justice, clear instances, as I have just mentioned, are judges and certain public officers, who are subject to, and speak according to, constitutional law or human rights norms. This scope must be narrow, but the current discussion widens the scope based on a premise stated in the introduction; the factual premise of institutionalisation of human rights norms. In this situation, people who deliver a committed sense of normative statements of justice are regarded to have an internal viewpoint of justice where they hold roles within institutions whose duties are stipulated by norm-creating organisations, typically the United Nations. Significantly, a novel phase emerges in terms of the scope of the subject of the relevant soft laws stipulating respect for human rights, including informal directives and guidelines, prominently the UN Guiding Principles on Business and Human Rights. Through the transmission of duties of the addressed institutions, agent individuals with roles are subject to, by reflective adherence to, obligations that advocate the value of justice. In this case, the scope of the speaker will widen because of the ongoing widespread practice of accepting and promoting human rights norms.

There are possible counterarguments against widening the scope of the third party owing duties of justice. One type of critic would say that even if individuals refer to human rights norms by chance, that statement is far from reliable to regard them as implementing agents of justice. However, the institution-role nexus indicates that agent individuals with roles are potentially and actually able to interpret both their social roles and the related institutions that are subject to human rights norms. This is observed among businesspersons, who are required to commit, or at least, pretend to commit, to

92 Ibid., 102.

93 Günther (footnote 4), 16–18.

the effort to monitor human rights violations following the UN's guiding principle. In addition, even when people do not occupy any institutional roles, or their obligations are conceived to be weak, such as a putative obligation of a retired professional who does not have a formal social role anymore, they may still undertake the obligation to conform to their categorical reason for respect human agency in virtue of their commitment-based role obligations.

Another possible objection would claim that the individual addressees of a human rights norm do not necessarily identify with the role related to the norm. The response is that it is enough to show that role acceptance is inferred from speakers' normative statements, which manifest their internal viewpoint of human rights norms. Certainly, some hypocritical or inactive agent individuals make statements of justice in a detached way, but the sign of the existence of the norm establishes the reasons for criticism.⁹⁴ As mentioned above, the role reason based on justice does not necessarily outweigh all the others – people must have another conflicting reason that is endorsable by itself, which therefore apparently supports reasonable decision-making. However, an important note is that the role obligations based on justice have exclusionary force, which protects one's fundamental reason for respecting human values. That means, even though one does not undertake that duty, the reason for justice remains true, for which an action has been morally required.⁹⁵ This explains why, for example, role-holders in the International Olympic Committee of 2021 in China, whose charter stipulates the prohibition of discrimination, are expected to have a reason to take action to eliminate persecution; otherwise, they are subject to criticism, as they ignore a salient role obligation and thereby fail to conform to the duty of justice.

As the value of justice is not realised unless it is respected and engaged, in the context of grave human rights violations, the agents of justice who make normative statements based on their justice-engaging roles have a duty to resolve injustices. They can prefer other conflicting reasons, such as economic effects – still, the conflict does not make them immune from denouncement for disregarding a justice-based reason, which continues to be true and valid.

7. Conclusion

This paper offered the grounds for the duty of third parties toward justice by presenting role obligations as a medium between institutional and personal obligations. My point of departure was the idea of agents of justice advanced by a few authors, notably O'Neill, along with discussions on rights-based theories, then I narrow down the focus to the implementing agents that have actual capacities to ensure human rights protection. However, I noted that many of the previous studies failed to explicate the duty bearers' motives, autonomous reasoning and integrity concerning justice, which constitute seri-

94 As a feature of a rule, see Hart (footnote 89), 56, 88.

95 Cf. Williams (footnote 47), 74.

ous lacunae for the effective accomplishment of justice. To incorporate these personal viewpoints, the distinction between commitment and responsibility was introduced in order to indicate that either of them is a condition for recognising a duty, and the combination of the two is most desirable. To explore the concept of duty that combine these two, I examined the role obligations undertaken by a role holder through her identification with social roles, particularly the role to which the related institution confers power and transmits the values it upholds. Based on these investigations, I finally argued that the desirable third party duty of justice is defined as a role obligation based on justice derived from an institution-based role or a commitment-based role related to human rights norms, widening the scope of agents and their potential contribution.

Bystanders who watch the trampled mouse may have a simple reason to intervene based on their empathy. In contrast, I argued on how those bystanders have duties to stop the elephant when they hold a role in which they are supposed to take an internal view of justice based on reliable institutions or commitment. The role-derived reason based on justice, as it is derived from one's autonomous reasoning according to the role tied with her life, is by no means an impartial one but undertaken through the reflective acceptance of her role and the associated responsible institution. This explanation implies that not all third parties who face human rights violations undertake a duty of justice: private persons who do not belong to any public institution or capable organisation adhering to justice, or do not consistently and impartially speak for justice, shall not be agents of justice.

Nevertheless, the explanation from a role holder's viewpoint affirms and supports the widespread practice of upholding human rights protection in the current global situation. Not only public officials, lawyers, but also individuals in businesses and NGOs as well as any others, as far as they hold roles pertinent to justice in their fields, are considered to conform to human rights norms. Incorporating as well as assessing their viewpoints is a critical condition for preserving human rights, since justice without individuals lapses into ineffectiveness, and individuals without valid reasons are susceptible to the *status quo*.

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