Assessing the Global Order: Justice, Legitimacy, or Political Justice?[·]

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Abstract: Which standards should we employ to evaluate the global order? Should they be standards of justice or standards of legitimacy? In this article, I argue that liberal political theorists need not face this dilemma because *liberal* justice and legitimacy are not distinct values. Rather, they indicate what the same value, i.e., equal respect for persons, demands of institutions under different sets of circumstances. I suggest that under real-world circumstances – characterized by conflicts and disagreements – equal respect demands basic-rights protection and democratic participation, what I here call 'political justice'. I conclude the article by considering three possible configurations of the global order – the 'democratic world-state', 'independent democratic states', and 'mixed' models – and argue that a commitment to political justice speaks in favour of the latter.

Key words: justice, legitimacy, democracy, distributive equality, global institutions, equal respect.

Introduction

The existing global institutional order is far from being morally faultless, but what standards ought to be employed to evaluate its moral failings, and guide its reform? There are two main contenders for this role: standards of legitimacy, and standards of justice. Traditionally, *legitimacy concerns the right to govern, justice the moral quality of government.* A legitimate institution has the right to rule, a just institution exercises its rule consistently with its subjects' rights and entitlements (cf. Reidy 2007, p. 246).

Within the liberal tradition, discussions about justice and about legitimacy – whether in relation to the domestic or the global realm – have often proceeded separately.[1] In this paper, I argue that such a separation is regrettable, because the underlying concerns of a liberal account of legitimacy are the same of those of a liberal account of justice. From a liberal perspective, justice and legitimacy should not be treated as distinct values. Instead, they should be seen as expressing what the same value – equal respect for persons – demands of our institutions under different sets of

[·] My interest in this topic was partly sparked by Terry Macdonald's (2011) work on international/global legitimacy. I am grateful to the audiences at the SPT Seminar (ANU, April 2011), the Visiting Speakers' Seminar (Monash University, April 2011), and the ECPR General Conference (Reykjavik, August 2011) for questions and comments. I also thank Luis Cabrera, Emanuela Ceva (who revealed her identity as a reviewer), Terry Macdonald, and Miriam Ronzoni for their extremely helpful written comments on an earlier version of the paper, and Christian List for discussion.

[1] On this see Ceva (forthcoming). Ceva rightly argues that accounts of justice should include procedural considerations which are typically confined to the realm of legitimacy. Note that, unlike other theorists, Buchanan (2004) discusses justice and legitimacy together.

circumstances.[2] When deciding how to evaluate domestic and global institutions, then, we need not choose between justice and legitimacy, but simply ask ourselves what equal respect demands under the circumstances at hand. Given existing circumstances, our answer to this question delivers what I call *principles of political justice*, namely principles of justice that are sensitive to the conflicts and power-dynamics characterizing real-world politics. I bring the paper to a close by examining the implications of this conceptual conclusion for our moral assessment of the global institutional order.

The paper is structured as follows. In section 1, I lay out the distinction between the *concepts* of justice and legitimacy. In section 2, I specifically focus on the *conceptions* of justice and legitimacy defended by *liberal* political theorists (in the domestic context): distributive egalitarianism and democracy.[3] In sections 3 and 4, I question the idea that there is a fundamental distinction between liberal justice and liberal legitimacy, and show that they are rooted in the same value, giving rise to different rules of conduct under different circumstances. I argue that, given the existing circumstances of reasonable disagreement about justice, a (politically) just state need not be distributively egalitarian, but must protect basic rights and democracy. This way of thinking about justice is eminently 'political' insofar as it takes seriously not only the distribution of material goods, but also that of political power. In section 5, I consider the implications of my argument for the debate on global justice. I suggest that the debate's focus on distributive equality is somewhat misguided, and that a politically just global institutional order is one that secures respect for basic rights and democratic participation for all its inhabitants. In section 6, I lay out three possible configurations of the global order which may all be thought to instantiate the outlook on justice I favour – the 'democratic world-state', 'independent democratic states', and 'mixed' models – and defend the latter in particular. I conclude by summarizing the paper's arguments.

1. The Concepts of Justice and Legitimacy

What is *justice*? Even though philosophers disagree about the substantive answer to this question, they agree that principles of justice establish people's rights, they tell us who owes what to whom (Barry 1991). For example, to say that Bob owes Mary five pounds is to make a claim about justice. Similarly, to say that Christine owes Jacob compensation for damaging his car is to make a claim about justice, about what Jacob has a right to. This is a maximally general definition of justice, applying to all sorts of agents, be they individuals or collectives. But my focus in this paper is narrower than that: I am specifically interested in the justice of coercive political institutions. From this perspective, principles of justice determine what such institutions – rather than individuals or groups – owe to their subjects. When political institutions are just, they fully respect their subjects' rights.

Legitimacy indicates a different standard for institutional evaluation (cf. Rawls 1995, lecture IX). The function of legitimacy is not to tell us when a political institution gives its subjects what they are owed, but when it is entitled to exercise political power (Buchanan and Keohane 2006). A legitimate state may not be fully

[2] Rawls (1995) acknowledges that liberal justice and legitimacy originate from the same normative concerns, however he still insists in keeping them separate, by suggesting that the former is more demanding than the latter. See Peter (2010) for discussion. For a similar view, see also Buchanan (2002 and 2004).

[3] For the distinction between concepts and conceptions see Rawls (1999a, p. 5).

just, but it nevertheless has the right to rule (and to be obeyed).[4] For instance, from the perspective of an egalitarian political philosopher, the United Kingdom is not a perfectly just state: it is far from implementing distributive equality. Yet most egalitarian philosophers would probably argue that the British State has the right to rule (and be obeyed), namely that it is legitimate.

To sum up, we may distinguish between justice and legitimacy along the following lines:

- **Standards of justice**: indicate when institutions give their subjects exactly what they are entitled to (i.e., when they respect their rights).
- **Standards of legitimacy**: indicate when institutions have the right to rule (and be obeyed).

2. Liberal Conceptions of Justice and Legitimacy

What do justice and legitimacy demand? In this paper, I focus on the answers given by the contemporary liberal-egalitarian tradition in particular, which is characterized by a commitment to the moral equality of persons *qua* rational and autonomous agents (Waldron 1987, Kymlicka 2001, p. 4). This commitment informs liberal accounts of both justice and legitimacy.

As far as *justice* is concerned, respect for persons' autonomy demands that institutions establish entitlements in such a way as to allow each to pursue her goals without preventing others from doing the same. In other words, a just society is one in which everyone enjoys the necessary social conditions to lead an autonomous life. Different theories of justice offer different articulations of this ideal. For instance, Rawls's justice as fairness (1999), Dworkin's equality of resources (2000), and G.A. Cohen's equality of access to advantage (1989) can all be seen as attempts to operationalize what each person is owed by the state – or a functionally equivalent set of institutions – *given* the fundamental moral equality of all.

While justice demands the satisfaction of certain substantive requirements, *legitimacy* is associated with the satisfaction of procedural ones. Within the liberal tradition in particular, the right procedures are typically those that express equal respect for persons by attracting their *consent or acceptance*. Although this understanding of legitimacy is widespread among pre-20th century liberals – specifically social-contract theorists – a contemporary and influential version of it is offered by Bernard Williams.

Williams (2005, ch. 1) argues that a state is legitimate when it 'makes sense' to its subjects as a political authority with the right to rule. That is, a state is legitimate only when it is accepted as such. Crucially, only *genuine* acceptance – rather than acceptance resulting from subjugation – has legitimizing force.[5] A slave may regard his master as a 'legitimate authority', yet the slave's acceptance of the master's authority hardly counts as legitimizing. For similar reasons, any legitimate state must include guarantees against oppression.

Note though that even when such guarantees are in place, citizens rarely *all* consent to their government and regard it as authoritative. As anarchists have

[4] The notion of legitimacy can be given more or less demanding readings. On one reading, an institution is legitimate if it has the (liberty) right to rule. On another, more demanding reading, a legitimate institution has the (claim or power) right to rule *and* its subjects have a duty to obey it. My argument is neutral between these two accounts. On this see the contributions in Meyer (2009), and Durning (2003).

[5] This is due to what Williams calls the 'critical theory principle'.

repeatedly pointed out, universal consent is chimerical.[6] This suggests that equal respect cannot feasibly require *de facto* unanimous consent/acceptance, but must demand something weaker, namely respect for the opinions and views of those who are governed (Waldron 1999, Christiano 2008).

These reflections have led many liberal philosophers to conclude that institutions can be legitimate only when they are *democratically* organized, thereby granting citizens equal participation in political decision-making.[7] As Buchanan (2002, p. 711) puts it: democratic theory does 'what consent theory claimed but failed to do but without the overdemanding requirement of consent: reconcile equality with the exercise of political power'. Of course, there are different forms of democracy, but certain minimal conditions such as freedom of speech, association, universal suffrage and majority rule have to be satisfied for a society to count as democratic. Unless these guarantees are robustly provided, a state cannot be legitimate from a liberal point of view.

From our short discussion it has emerged that, in contemporary liberal theory, justice by and large corresponds to substantive equality, while legitimacy to procedural equality. To be sure, legitimacy demands the satisfaction of certain 'substantive' rights making it possible for people to exercise their 'procedural' rights. When people are severely discriminated against, or denied access to basic goods, they are hardly able to participate as equals. What distinguishes legitimacy from justice – *to the extent that* they are treated as separate moral concerns – is that substantive guarantees are seen as necessary to the satisfaction of procedural demands, rather than as independently valuable.

In sum, as Eamonn Callan (2001, p. 141) puts it, '[o]n the standard liberal construal of legitimacy, it requires the free consent of citizens in some sense. Justice [by contrast] depends on the extent to which democratic self-rule honors basic rights and realizes a fair distribution of benefits and burdens among citizens.'

3. Justice and Legitimacy: Two Separate Values?

Even though this picture of the distinction between justice and legitimacy is common in the contemporary liberal literature, I am going to challenge it. To give the challenge some initial plausibility, let me start by highlighting some puzzling features of this distinction as it is typically conceived of.

To begin with, liberal justice and legitimacy are depicted as competing values, but as the previous section has shown, they stem from the same fundamental commitment to equal respect. On the 'justice' reading, equal respect requires that all persons be given an equal sphere of agency (delimited by their rights to social goods) within which they can pursue their ends and goals. On the 'legitimacy' reading, equal respect demands that the institutional mechanisms which 'force' a certain distribution of rights on people be as consistent as possible with people's own views. The natural reaction to these different interpretations of the demands of equal respect is a suspicion that only one of them can be correct. Either a set of institutions instantiates equal respect because its rule meets independent distributive standards (justice); or it instantiates equal respect because its rule is democratically validated (legitimacy). If

[6] This point applies to both express and tacit consent alike. For defences of anarchism see, e.g., Simmons (1976) and Wolff (1970), the former in particular for a critique of consent theory.

[7] Williams would disagree. I agree with Matt Sleat (2010, p. 496), however, that Williams's attempt at distancing himself from liberalism is unsuccessful. For a defence of liberal democratic legitimacy see Buchanan (2002), and the review by Peter (2010), which confirms that the dominant liberal view on political legitimacy is broadly 'democratic'.

you believe in liberal justice, then it becomes unclear why you should also believe in liberal legitimacy and vice versa (cf. Davis n.d.).

The separation between justice and legitimacy is puzzling not only because they express the same underlying moral concern (i.e., equal respect), but also because they have the same function: that of justifying coercion. Legitimacy tells us when institutions have the right to rule, that is to coerce us into respecting particular laws. Justice tells us when institutions give their subjects what they are owed, and what they are owed as a matter of justice is *rightfully enforceable* (think of property rights, valid contracts etc.).[8] When coercion is used to protect people's justice-based entitlements, i.e., their spheres of agency, it is rightful precisely because its exercise is consistent with the autonomy of all (see Kant 1965 [1797] and Blake 2001).

In sum, since liberal justice and legitimacy (i) stem from the same moral concern and (ii) have the same function, one may rightly wonder why they are treated as *entirely* separate values. Some liberal theorists – arguably Rawls (1995) and certainly Buchanan (2002 and 2004, ch. 5) – have already offered a partial answer to this puzzle, by defending a justice-based account of legitimacy. On this account, institutions are legitimate when they sufficiently approximate the demands of justice (i.e., equal respect), without necessarily meeting them fully. From this perspective, justice and legitimacy are not *entirely* separate, but legitimacy is a subset of justice. A state is legitimate if it protects certain fundamental rights, including the right to democratic political participation (assuming this is possible), but its protection of such rights need not be perfect, and the outputs of democratic decisions need not fully align with the demands of egalitarian justice (Buchanan 2002).

This account of the distinction between justice and legitimacy responds to our original puzzle, but it generates a different one, namely: How are we to distinguish those requirements of justice which are necessary and sufficient for legitimacy, from those which are not? Moreover, this account has the odd implication that the state is *justified* in enforcing some *unjust* laws, provided they are democratically chosen. But how can this be consistent with the claim that only demands of justice are rightfully enforceable? If I have an entitlement to X, how can the state rightfully enforce a law that denies my entitlement to X? (Davis n.d.).

In what follows, I suggest that these puzzles can be answered by no longer considering justice and legitimacy as (entirely or even partly) separate values. Justice and legitimacy are both expressions of what the same value (equal respect) demands of our coercive institutions *under different sets of circumstances*. In brief, what we typically call 'justice' articulates the demands of equal respect under the so-called circumstances of justice (moderate scarcity, limited altruism, and no reasonable disagreement about justice). What we typically call legitimacy articulates the demands of equal respect under the circumstances of 'political justice' (moderate scarcity, limited altruism, and reasonable disagreement about justice).[9] Which articulation of equal respect we should employ to evaluate our institutions thus depends on the circumstances at hand.

4. Justice and Political Justice

My argument is based on the following assumptions.

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[8] On the enforceability of justice see, e.g., Buchanan (2002, p. 704), Nardin (2005) and O'Neill (1996). This distinguishes justice, for instance, from other moral demands such as charity.

[9] Cf. what Jeremy Waldron (1999) calls the 'circumstances of politics'. For further discussion see note 11 below.

a) *A state is just (i.e., it complies with the duties of justice that apply to it) when it gives its citizens what they are owed qua moral equals.*

This premise has already been discussed and defended earlier in the paper, and simply restates the 'liberal' conception of justice.

b) *Ought implies can: duties cannot exceed what is possible.*

This is a constraint on any genuine moral requirement. Plainly, individuals and institutions cannot have duties to do what they cannot do. The duties (of justice) that apply to them must align with the limits of human nature. Combining (a) and (b), we obtain:

c) *A state is just when it gives its citizens what they are owed qua moral equals, to the extent that this is possible given the limits of human nature.*

But what are the limits in question? Traditionally, these correspond to the so-called Humean circumstances of justice: moderate scarcity and limited altruism (Rawls 1999, pp. 126-130).[10] In a just society, resources must be so distributed as to express equal respect for persons, taking into account that resources are scarce and that humans are not fully altruistic creatures. The recommended distribution is typically egalitarian in form. Of course, what institutions have to do in order to realize the relevant conception of justice might vary depending on the social conditions at hand. For instance, in a society characterized by racial discrimination, justice might demand the introduction of affirmative action policies (see, e.g., Nagel 1977). But notice that variation here only concerns the *implementation* of the correct account of justice, not what the correct account of justice *is* in the first place. So far, we have reached the following conclusion.

d) Under conditions of moderate scarcity, and limited altruism (and no reasonable disagreement about justice), institutions are just – they give citizens what they are owed qua moral equals – when they realize distributive equality.

Things look different, however, if instead of limiting the circumstances of human existence to moderate scarcity and limited altruism, we include another pervasive fact of social life: disagreement about what justice itself demands (Waldron 1999). This fact appears to be at least as pervasive as resource scarcity and human selfishness. Indeed, even among those committed to equal respect (the group I am focusing on for the purposes of this paper) there is serious disagreement concerning what social rules count as respectful of all. Disagreement between different *plausible* interpretations of equal respect, i.e., of what it is for people to have roughly equal spheres of agency, is what I here call 'reasonable' disagreement.[11]

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[10] Exactly identifying such limits is a complex matter, and different proposals are bound to be somewhat controversial.

[11] Rawls (1995) introduces the notion of reasonable disagreement between conceptions of the good. The Rawlsian framework has been famously extended to disagreements about justice by Waldron (1999, ch. 7). Note, however, that for Waldron reasonable disagreements about justice need not be characterized by a commitment to equal respect. Rather, they need to be 'good faith' disagreements between rational/conscientious people. While my notion of reasonable disagreement is partly normativized (arguably in line with Rawls's own understanding of it), Waldron's appears to be more directly epistemic. See also Gaus (1996).

Consider, for instance, variations on Rawls's difference principle. Even though Rawls (1999a) claims that this principle would be unanimously chosen in the original position, it is not clear that this is the only principle which could express equal respect for persons (but cf. Rawls 1999b). Indeed, Dworkin's equality of resources would seem to be another plausible candidate – or Sen's equality of capabilities, and so forth.

To be sure, we can readily exclude a number of possible social arrangements as inconsistent with persons' moral equality – i.e., those which would fail to respect certain fundamental rights, or those which would obviously unfairly discriminate against a particular social group. However, beyond certain limits, equal respect is open to different reasonable interpretations, and we do not seem to be in the epistemic position to single one out as being uncontroversially superior to the others. Under these circumstances, how should we organize our institutions for them to express equal respect to the extent that this is possible given the limits of human nature? The answer is: democratically.[12]

The line between the substantive and the procedural demands of equal respect is to be drawn in correspondence with those matters of justice over which there is reasonable disagreement. If we ask: What should institutions do to show equal respect towards their subjects, when their subjects reasonably disagree about justice? The answer is: they should enforce those demands of justice that are a *sine qua non* of equal respect (and I am assuming they are a non-empty set), and then let democratic procedures determine what else equal respect requires. Directly enforcing a partisan conception of justice on society would be inconsistent with equal respect, because it would treat holders of competing reasonable views as inferiors. When there are conflicts about justice, one of citizens' rights – which a just government ought to respect – is that to (approximately) equal political decision-making power, i.e., to democratic participation (Valentini forthcoming, cf. Gaus 1996, Christiano 2008, and Waldron 1999).

Of course, democracy (on any specification of its requirements, a matter on which I remain silent in this paper) is less than perfect. Democratic outcomes inevitably favour the views of some (i.e., of the majority) over those of others. Since decisions cannot be postponed indefinitely or until consensus is reached, giving each person an equal say in political decision-making seems to be the best solution compatible with equal respect.[13] *If ought implies can*, *justice cannot require of institutions any more than what they can do to realize it.* Under circumstances of reasonable disagreement about justice, this corresponds to respect for basic rights plus democratic entitlements.[14] Strict distributive equality ceases to be the core of justice

[12] I have offered a more sustained defence of this claim in Valentini (forthcoming), on which the following paragraphs partly draw. There I emphasize that democracy can be defended as a demand of justice only if reasonable disagreements about justice extend to the truth conditions of claims about justice. This proviso (implicitly) applies to the present discussion too.

[13] Some think that random procedures (e.g., lotteries) also express equal respect. I briefly explain why I am generally sceptical about this view in Valentini (forthcoming).

[14] Emanuela Ceva has suggested to me that reasonable disagreement might also extend to constitutional rights and democratic institutions (see Waldron 1999, and Reidy 2007, esp. pp. 259ff.). This is an important worry, yet one I believe is less pressing in my case than, say, in Waldron's, because my notion of 'reasonable disagreement' is more strongly normativized than his (see also note 11 above). By reasonable disagreement about justice I mean disagreement between views that are compatible with equal respect. While there may be disagreement, at the margin, about the best shape of basic rights and democratic decision-making, a certain set of guarantees (i.e. basic rights and democracy *broadly* construed) will have to be in place for a society to be a plausible instantiation of equal respect. If, by contrast, one's understanding of reasonable disagreement does not refer to an independent normative

because its status as an enforceable moral demand is conditional upon its democratic approval. In sum:

e) Under conditions of moderate scarcity, limited altruism, and reasonable disagreement about justice, institutions are (politically) just, i.e., they give their citizens what they are owed qua moral equals, when they realize basic rights and democracy.

This conclusion may seem to have a particularly unpalatable implication, namely that the different competing theories of distributive justice which constitute the bulk of the contemporary literature on the topic have no normative force, or no role to play in deciding how society should be organized. If my view really had this implication, it would be highly surprising and (possibly) problematic. But as I shall shortly explain, it does not. From the perspective I defend, Rawls's difference principle, or Dworkin's equality of resources are not 'thrown out of the window', so to speak, but are simply no longer allowed to take centre stage in thinking about justice. This seems fully appropriate, given their fragile normative status: they are all reasonable interpretations of equal respect, but there is no privileged perspective from which we can single one of them out as correct. On the view I have presented, the substantive egalitarian principles dominating the contemporary debate on justice do not primarily apply to institutional conduct, but to the political choices of individuals *within* just institutions (cf. Waldron 1999). They represent competing accounts of what political programmes individuals should support (e.g., through democratic vote), not of how institutions ought to be structured at a fundamental level. Such institutional principles, sensitive to the existence of disagreement and conflict, and setting out enforceable entitlements, are what I call principles of *political justice*.

To sum up, if norms of justice indicate when an institution gives its citizens what they are owed *qua* moral equals, and justice is always constrained by the limits of human nature, under circumstances of reasonable disagreement about justice, *institutions* are politically just when they implement basic constitutional guarantees and democratic rights. The values of justice and legitimacy are thereby brought together under the (more coherent) master-value of political justice. There are no longer two competing answers to the question 'What does equal respect demand of *our* institutions?', but one, integrated answer. In what follows, I explore the implications of this view for our assessment of the global order.

5. Reconsidering the Debate on Global Justice

The debate on global justice has in large part focused on whether liberal-egalitarian distributive justice should apply globally. While cosmopolitans insist that this question should be answered in the affirmative, statists deny the global extensibility of egalitarian justice (see, e.g., Caney 2005, Tan 2004, Pogge 1989, Beitz 1999 [1979], Moellendorf 2002; Rawls 1999b, Miller 2007, Nagel 2005). If my argument so far is correct, this focus on the global appropriateness of distributive equality is misconceived. On the assumption that there exists reasonable disagreement about the nature and content of justice, distributive equality cannot be the guiding value of an account of justice for institutions, whether local or global. From a liberal perspective, under circumstances of reasonable disagreement about justice, the world ought to be

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criterion such as equal respect, then the scope of reasonable disagreement will be broader than what I suggest, possibly also encompassing non-liberal views.

so organized as to respect each person's basic rights, and allow competing reasonable accounts justice to confront each other fairly, through broadly democratic procedures.[15] When institutions satisfy these requirements, they are *as just as they can be*, and this is the case not only for domestic institutions, but also for global ones (given the undeniable existence of reasonable disagreement at the global level).

What is more, while democratic institutions already exist at the domestic level, they are lacking at the global one. When such institutions are present, a focus on 'what people should vote for' on the part of political philosophers is not practically idle. But such a focus becomes dubious in the global arena, where no democratic decision procedures exist. Absent such procedures, and the preconditions for their good functioning, egalitarian principles are normatively irrelevant. This is because, as we have seen, their status as enforceable demands of justice rests precisely on their being the output of such procedures.

In sum, my conceptual analysis of justice and legitimacy prompts us to *reorient the debate on global justice from a focus on distributive equality, to a focus on basic rights and democracy*. Theorists of global justice should ask how the global order can best guarantee both persons' basic rights, and their participatory entitlements in the institutional structures that apply to them.

6. Towards a Politically Just Global Order

In this section, I consider three possible accounts of what a politically just global order – one that secures basic rights and democratic participation for all its inhabitants – might look like, and argue in favour of one of them in particular. The accounts describe, respectively: (i) a global democratic state, (ii) a system of independent and internally just states, and (ii) a system of states coexisting with a multiplicity of supranational institutions.

6.1 A Democratic World State

The first account of a just global institutional order is modelled by analogy to domestic political-legal systems (see, e.g., Tännsjö 2008, Cabrera 2004).[16] It envisages a global state with a legislative assembly, an executive, a judiciary, global political parties, and global constituencies. To be sure, elaborating the details of this complex global political structure is a task largely bound to rest on speculative grounds. Still, the idea of a domestic state being somehow reproduced at the global level seems sufficiently clear to allow for critical discussion. As always when it comes to the evaluation of normative ideals, two perspectives have to be taken into account: that of desirability and that of feasibility.[17] Interestingly, most critics of the ideal of a democratic world state tend to focus on its infeasibility, while implying that, if a *just* global state were possible, it would be desirable. Contrary to this common stance, I will argue that fatal to the ideal of a democratic world state are not so much considerations of feasibility but of desirability. Let me start with feasibility.

Feasibility challenges to a global democratic state emphasize that the necessary background conditions for such a state to exist and function are lacking. A well-functioning democracy needs a demos, namely a set of people (constituting the

[15] A similar claim is also made by Caney (2006) and Buchanan (2002 and 2004, ch. 7 sec. III). Caney's and Buchanan's arguments though seem to presuppose the distinction between justice and legitimacy which I challenge. For discussion of Caney's position in particular see Valentini (n.d.a).

[16] For the discussion of the so-called domestic analogy, and a tri-partite distinction between different configurations of the global order along the lines drawn here, see Suganami (1989).

[17] On desirability and feasibility in relation to the global arena see Gilabert (2012).

electorate) capable of effectively participating in, and sustaining, democratic institutions (see List and Koenig-Archibugi 2010). This capacity presupposes a certain level of 'internal cohesion' and agreement on principle, mutual trust and fellow-feelings. Globally, such an internally cohesive demos does not exist, and is unlikely to exist for many years to come. This being the case, global democracy is best seen as a chimera, akin to the ideal of a society of angels (see, e.g., Miller 2009 and 2010).

The feasibility sceptic seems right: there is no global demos, and there probably will not be one in the near future. But can we move from the actual non-existence of a global demos, to the conclusion that global democracy is altogether infeasible? It seems not (Valentini n.d.b). Consider an analogous situation at the domestic level, such as the present one in Iraq (List and Koenig-Archibugi 2010, p. 87). After the Second Gulf War and the trial of Saddam Hussein, Iraq has entered a troubled political phase, leading to it being considered a clear case of a failed state.[18] Attempts to establish a *well-functioning* democracy have not been entirely successful, because the preconditions for a well-functioning democracy – peace, security and mutual trust – are not in place. In other words, there is no fully-fledged demos. Does this imply that we should reject the idea that just states must be democratic? It would seem not. What this fact implies is that it is hard to realize democracy in Iraq now, when conditions on the ground are not yet fertile. A move towards democracy should be a long-term goal, but at the moment the priority should be peace, security, and respect for basic rights. Only once these guarantees are in place can we genuinely institute a healthy democracy in the one-person-one-vote sense.

A similar reasoning applies at the global level. The fact that a global demos does not yet exist need not imply that it could never exist (List and Koenig-Archibugi 2010). Of course, there is an important difference in scale between domestic and global arenas. While we know that democracy is in principle possible at the state level (there are, after all, many democratic states) we cannot have the same confidence in the possibility of global democracy. Can the necessary fellow-feelings and shared norms develop across the world's population? These reflections invite caution, but once again they do not *demonstrate* that the idea of global democracy is altogether impossible (Koenig-Archibugi 2011). In fact, as Robert Goodin (2010) has argued, we might even interpret recent developments of the global order – especially in the form of an ever-more solid global rule of law – as first steps in the direction of global democracy. Feasibility considerations, then, cannot be invoked as *conclusive* arguments against a global democratic government.

What about desirability? The idea of a world state has often been objected to on the grounds that it would inevitably lead to global tyranny.[19] For reasons already explored in the previous paragraphs, this argument also has little bite. Since we have no conclusive evidence to exclude the feasibility of global democracy, the worry about global despotism is at most an invitation to be cautious, rather than a knock-down argument against a democratic world state (Valentini 2011, sec. 2.4 and 2.5, Pogge 2009). Instead of focusing on the global despotism argument, I wish to focus on a less popular desirability-based objection to global democracy. This is that, for many, the withdrawal of state sovereignty and self-determination implied by the advent of global democracy would represent a loss of value. This is the value of

[18] http://news.bbc.co.uk/2/hi/6766877.stm (last accessed on December 21, 2011).
[19] This worry is shared, for example, by Immanuel Kant (1795), Rawls (1999b), and Nagel (2005).

determining our future jointly with our fellow-citizens, with whom we have a shared history (Miller 1995, cf. Stilz 2011, sec. V).

In light of this, if respect for basic rights and democracy could also be possible within a system allowing for national pluralism and self-determination, why move to one in which these values are not realized? This points in the direction of a second configuration of the global order.

6.2 A World of Separate, Independent and Democratic States

This second ideal assumes that it is possible to build a just global order comprised of a multiplicity of independent and internally just states, without global institutions. Global political justice would then require states to refrain from undermining their national self-determination, to respect international treaties, to help one another when in need, and largely to leave each other alone (cf. Rawls 1999b).

How does this picture of a just world order fare from the viewpoints of desirability and feasibility? From a desirability perspective, the pluralistic just world envisaged here seems very appealing, combining respect for communal ties and self-determination, with respect for basic rights and democracy. Of course, liberal-egalitarian cosmopolitans would object to this normative proposal because it allows for resource inequalities between societies (and individuals). But if my arguments about the status of distributive equality are correct, this does not pose a serious challenge to this more pluralistic normative proposal. Moreover, democratic decision-making is a morally required expression of equal respect only between those who exercise political power over one another, and in a world of independent states, citizens of different communities do not stand in such mutual power-relations. Under the circumstances envisaged here, democracy beyond borders is therefore not a requirement of equal respect.

What makes the proposed pluralistic picture of a just global order problematic, I argue, are instead considerations of feasibility. In our inter-dependent world, the ideal of a loose federation of self-sufficient political communities is a chimera. Globalization has undermined the state's capacity to perform the functions which justify its existence (Ronzoni 2009). States' domestic affairs are increasingly affected – whether deliberately or not – by decisions taken outside their borders. In an ever-more integrated world, political communities interfere with one another all the time, not so much through military means, but through economic and political ones (Dahbour 2005, p. 216).

Recurrent financial crises, and lower capital taxation aimed at attracting foreign investment, put significant pressure on the state's capacity to secure basic rights in both developed and (particularly) developing countries (Avi-Yonah 1999-2000, Dietsch 2011, Rixen 2011, Dietsch and Rixen n.d.). Similarly, states' ability to provide a safe environment for their citizens is increasingly threatened by international crime and terrorism, as well as by dangerous climate change.

To tackle these phenomena, states need coordination mechanisms in the form of supra-national agencies with the authority to generate binding regulations.[20] As recent history has shown, voluntary federations of states often lack the resources to respond to global challenges, and their decisions are highly susceptible to being skewed in favour of their most powerful members. Think of the United States' refusal

[20] For a proposal concerning the relevant agencies in the fields of criminal and socio-economic justice see Orrù and Ronzoni (2011), and in that of tax competition see Dietsch and Rixen (n.d.). This type of proposal has also been advocated by theorists of global democracy, such as Held (1995), and of cosmopolitan justice, such as Pogge (1992).

to join to the ICC, of WTO subsidies for farmers in the US and Europe, and of the disappointing outcomes of recent climate summits. International institutions must possess a certain level of independence and authoritativeness if they are to realize the ideal of a world in which each person enjoys basic-rights protection, and can participate in collective decision-making.

6.3 A World of Democratic States and Accountable Supra-national Institutions.

It should not be surprising that the picture of the world order I advocate falls somewhere in between the previous two. I am thinking of a world in which multiple national communities retain some sovereign powers, while other sovereign powers are devolved upwards, to supra-national institutions with specific competences. This of course would involve somewhat compromising state sovereignty, but it would be done for the sake of those goods that state sovereignty is supposed to deliver in the first place (see Ronzoni 2009, Valentini 2011, ch. 8). Let me explain.

Earlier I suggested that there is a value to national self-determination, and the ability of different peoples to affirm their communal ties and shape their future together. However, this value is premised upon their collective decisions being effective. There cannot be genuine self-determination without control (Ronzoni 2012). My suggestion is that, under existing circumstances of global interdependence, control – the very control necessary for equal respect – is not possible without supra-national institutions. States' capacity to be self-determining is eroded, so that even though they *nominally* keep certain powers, *de facto* they cannot effectively exercise them. Ceding sovereignty upwards – for instance in matters of global financial regulation, or global climate and environmental risk-management, or global criminal law – would officially sanction something which is already the case in practice: namely that states are not in a position individually to cope with these world-scale problems (Orrù and Ronzoni 2011).

Crucially, I am not arguing for the establishment of a global government, but rather, for the creation of a multiplicity of supra-national institutions each in charge of authoritatively addressing particular types of coordination problems (economic, financial, criminal, environmental etc.) with global reach.

On the proposed model, states would still be able to operate freely *within* the constraints set by the relevant supra-national institutions on matters of global interest, in the same way in which citizens can act in freely within the confines of domestic law regulating matters of national interest. Moreover, the type of organization I have in mind would be centered around the so-called 'subsidiarity principle', according to which there would be no need to transfer decision-making power to the supranational level, when decisions could be efficiently taken at the national or local one. Transfers of sovereignty 'upwards' would only be justified if necessary.

Interestingly, the intermediate model I am sketching is not so far from developments of the global arena we are already witnessing today. The idea of absolute state sovereignty is a myth not only at the level of empirical fact (due to the *de facto* influence of globalization processes on domestic affairs) but also at that of shared moral norms. As Goodin (2010) argues, international norms *above* the state are becoming more and more entrenched in the international community, for instance human-rights norms and principles of *jus cogens*. Moreover, international institutions are being created, and their membership increasingly expanded – think, for instance, of the European Union, the ICC, or the WTO (Goodin 2010). To be sure, such institutions are far from being fully just, and are often criticized because of their

democratic deficit. These criticisms are good news though, for they express a healthy urge to move in the direction of democratization, and hence of political justice.

Of course, while we may have taken the first step towards a more politically just global order, we are still far from having reached our target, and the question of how to get there most safely and efficiently is a hard one to address. I want to conclude by venturing a conjecture, and one that seems particularly fitting when we consider what democratic states ought to do in this respect. My sense is that there is little prospect for powerful democracies such as the United States, Canada, European countries and Australia to take the lead on global institution-building *unless* their citizens activate first (cf. Ypi 2011). Citizen-responsiveness is at the heart of democratic politics, and unless the majority of the electorate expresses global-justice-oriented preferences, democratic governments are unlikely to work towards global institution building and fair decision-making. So although political justice is primarily a virtue of institutions, in well-functioning democratic states, responsibility for its global realization falls largely on citizens themselves. The hope is that, once a critical number of leading democratic states mobilizes in pursuit of global political justice, other powerful and less powerful states will follow. After all, addressing global problems is in everyone's interest, and once a dominant solution emerges, remaining outside of the network of those who have adopted it comes at considerable costs (Goodin 2010, Grewal 2008). There is therefore reason to believe that the politically just global order here envisaged, though still far from the *status quo*, is not entirely utopian.

Conclusion

In this paper I have done three things. First, I have offered a conceptual analysis of the notions of justice and legitimacy, and concluded that, as part of a liberal account of morality, they are not genuinely distinct. In particular, I have suggested that principles of justice and principles of legitimacy indicate what equal respect for persons requires of institutional arrangements under two sets of circumstances: without and with reasonable disagreement about justice. I have then argued that since our world is punctuated by many instances of such reasonable disagreement, the principles of justice that apply to it demand respect for basic rights and democratic participation. These I have called principles of 'political justice', to highlight their sensitivity to the conflictual and power-driven nature of politics.

Second, I have considered the implications of this conclusion for the debate on global justice, and argued that its focus on the question of whether economic equality should be seen as a global goal is somewhat misconceived. The ideal of a (politically) just world order that applies to us, given existing disagreement, is one on which both statists and cosmopolitans can converge, and includes respect for basic rights and democratic participation.

Third, I have turned to the question of what type of institutional configuration the global order ought to exhibit in order to best realize the normative goal of global political justice. I have contrasted three different possible configurations, and opted for the ideal of a world in which separate states with limited sovereignty coexist with issue-specific and democratically organized supra-national institutions in charge of making binding decisions on coordination problems with global reach. Even though we are far from realizing the ideal proposed, with the commitment of democratic citizens, we might be able to get there sooner than we think.

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