

Global Justice and the Role of the State: A Critical Survey

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Abstract: Reference to the state is ubiquitous in debates about global justice. Some authors see the state as central to the *justification* of principles of justice, and thereby reject their extension to the international realm. Others emphasize its role in the *implementation* of those principles. This chapter scrutinizes the variety of ways in which the state figures in the global-justice debate. Our discussion suggests that, although the state should have a prominent role in theorizing about global justice, contrary to what is commonly thought, acknowledging this role does not lead to anti-cosmopolitan conclusions, but to the defense of an “intermediate” position about global justice. From a *justificatory* perspective, we argue, the state remains a key locus for the application of egalitarian principles of justice, but is not the only one. From the perspective of *implementation*, we suggest that state institutions are increasingly fragile in a heavily interdependent world, and need to be supplemented—though not supplanted—with supranational authorities.

Key words: statism, cosmopolitanism, coercion, cooperation, grounds of justice, collective agency

Introduction

The role of the state in our age of deep political, economic, and cultural interdependence is heavily debated in political science. While some see globalization as marking the decline of the state as a form of political organization, others see the state as the engine of globalization and its main beneficiary (see, e.g., Evans 1997; Hirst and Thompson 1995; Gritsch 2005; Weiss 1998; 2003).

Similarly debated is the role of the state in normative political theory, and particularly in the context of disputes about the scope of justice, namely about its proper domain of application. Some theorists see the state as the key domain within which demanding principles of justice apply, and an important vehicle for their fulfilment. Other scholars insist that the scope of justice is global, and consider the state (at least partly) inimical to its realization. But what exactly do normative theorists have in mind when they invoke the state? And do their appeals to it genuinely serve the argumentative purposes for which they are intended?

Our aim in this chapter is to offer both a systematic account, and a critical appraisal, of appeals to the state in the global-justice literature.¹ Our contribution is threefold. First, we provide a survey of the different roles played by the state in contemporary debates about global justice. Second, we identify two particularly relevant conceptualizations of the state underpinning those different roles. Finally, we

¹ By “global-justice literature,” here, we mean the literature debating the scope, content, grounds and application of principles of justice in particular. We do not discuss the role of the state in other, important areas of international normative theory: e.g., debates about territorial rights, self-determination, humanitarian intervention, and just war.

critically assess whether the state, in these different conceptualizations, can justifiably play the argumentative roles contemporary theorists of global justice have assigned to it.

The chapter is structured as follows. In Section 1, we distinguish between two conceptualizations of the state: institutional and agential. In Section 2, we turn to the global-justice debate, and differentiate between two levels of argument at which the state is often invoked: the first concerns the *justification* of principles of justice (i.e., their scope and their content), the second their *realization*. In Section 3, we critically examine the roles played by the state at the *justificatory* level of argument, specifically as (i) a ground of justice, (ii) an agent of justice, and (iii) a recipient of justice. In so doing, we also illustrate some of the implications of understanding the state in institutional or agential terms, respectively. Section 4 offers a very brief discussion of the role of the state in the *realization* of global justice.

We reach the following conclusions. From a *justificatory* perspective, even if we grant that appeals to the state play some role in determining the scope and/or content of principles of justice, they do not succeed in limiting their reach to the domestic realm. Compelling reasons for applying some fairly demanding standards of justice beyond borders—though perhaps not identical to those that hold inside them—survive critical scrutiny. From the perspective of *realization*, our verdict is equally balanced. We suggest that, if we want to realize justice, the state—while remaining a major actor on the global plane—is in need of reform and supplementation regardless which view of the scope of justice one holds.

Overall, then, our analysis points in the direction of what are sometimes called “intermediate” approaches to global justice—namely approaches that, while acknowledging the importance of the state, advocate (i) fairly demanding principles of justice beyond borders, though weaker than those that apply at the state level, and (ii) the establishment of supra-national institutional agents—coexisting with states—capable of acting on those principles.

1. The state and how it can matter

Conceptualizations of the state vary widely. Some follow Max Weber (1919/1994, 310–11) and see it as an entity successfully claiming monopoly over the legitimate use of coercive force. Others conceive of the state as a particular set of institutions, including an executive, a legislature, a judiciary, and a permanent military. Others still think of the state as a “node” within a broader international system (for overviews see Jessop 2008; Morris 2011).

Offering a defence of a particular account of the state is a task that goes beyond the scope of this paper. Here, we limit ourselves to distinguishing two *families* of accounts, particularly prominent in contemporary political theory, which we call “institutional” and “agential.” These two perspectives are not mutually exclusive.

1.1 The institutional account

In the words of March and Olsen (2008, 3): “An institution is a relatively enduring collection of rules and organized practices, embedded in structures of meaning and resources [...]” On the institutional account, the state is a complex set of such rules and practices clustered around different functions. They include legislatures, executives, judiciary organs, armies, and bureaucracies. Each of these institutions is constituted by a set of rules, and distributes particular roles to individuals.

This institutional perspective is rather prominent in contemporary political theory. Its popularity originates in John Rawls’s famous claim that the subject of

justice is the basic structure of society. Rawls defines the basic structure as “the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation” (Rawls 1999a, 6). He specifies that those institutions include society’s political constitution and its main socio-economic arrangements, and are appropriately regarded as the subject of justice because their “effects are so profound and present from the start” (Rawls 1999a, 7).

When the state is conceptualized as a set of institutions—as in the above-quoted passages from Rawls—it is a *structure* rather than an *agent*. This structure might matter to individual agents either *in its own right* or *instrumentally* (or both). In the former case, the state matters insofar as it structures and crystallizes a complex set of relationships between its inhabitants; in the same way in which the institutions of friendship and the family are often thought to matter because they constitute valuable relationships. In the latter case, the state matters as a means to an end. The institutions constituting it are created to achieve certain goals that could not be realized in their absence, such as the delivery of justice, the preservation of security, or the provision of public goods.

1.2 *The agential account*

From a different, holistic perspective, the state may also be conceptualized as an *agent*. This suggestion is both unsurprising and puzzling. It is unsurprising because we often talk about the state as if it was a unitary agent, such as when we say: “The U.S. has signed a treaty” or “Russia has annexed Crimea.” It is puzzling because it is hard to see how a complex collective entity like the state can be an agent in the familiar sense, i.e., have *its own* will, identity, and intentions. Without an answer to this question, references to the state as an agent are no more than metaphors.

List and Pettit (2011) have recently provided one such answer. An agent, on their account, is a system that can be best interpreted as having beliefs and desires, and as acting on those beliefs in order to satisfy its desires. So characterized, an agent must possess (i) an internal deliberative structure, capable of producing beliefs, desires, and making decisions to act on their basis and (ii) the ability to translate such deliberations into “external” actions (e.g., through bodily movements). When an entity’s deliberative capacities are complex enough that it can understand and act on moral reasons, it counts not merely as an agent, but as a *moral* agent. Competent individual human beings clearly meet the conditions for both agency simpliciter and moral agency. Theorists of group agency claim, somewhat controversially, that so do some collectives: from universities to firms, from multinational corporations to newspapers (List and Pettit 2011; see also Tuomela 2013; French 1984; Collins and Lawford-Smith forthcoming).

Crucially, for our purposes, many existing states meet the aforementioned conditions for agency simpliciter as well as moral agency.² First, many states possess complex decision-making structures, responsible for the formation of collective beliefs and desires. Those decision-making structures are typically sophisticated enough to be responsive to moral reasons. Second, many states possess the ability to translate their deliberations and decisions into external actions, either through the authoritativeness of their directives or through coercion. In other words, the *nature* of the institutions constitutive of (many existing) states allows us to take an agential

² We say “many,” as opposed to “all,” insofar as some states—e.g., weak or failed states—may partially or fully fail to meet the relevant conditions. Whether all functioning states meet these conditions is an issue on which we shall remain silent here.

perspective towards them, to regard them as (collective) moral agents in their own right.

It is important to point out that not all institutional systems possess the qualities necessary to make the agential perspective available. For example, the market is an institution. It is constituted by relatively stable “rules and organized practices.” Yet the *nature* of the rules constituting it does not allow us to conceptualize the market as an agent in its own right. The market, after all, does not possess centralized decision-making and implementation mechanisms. Taking an agential perspective towards the market is thus not theoretically warranted.

When the state is conceptualized as an agent in its own right, it may be deemed to be valuable for its own sake, as a means to some other end, or both. The same reflections advanced on the value of the state as a set of institutions, therefore, also apply here. Interestingly, however, when the state is conceptualized as a collective agent, it can in principle acquire additional morally relevant features, which are unavailable in the case of non-agential structures. It can, for instance, qualify as a duty-bearer or a right-holder.

Having laid out two perspectives on the state, let us now turn to the debate on global justice, and the roles that the state, in either of these conceptualizations, plays in it.

2. The state and the (global) justice debate

Justice is perhaps the most-discussed notion in contemporary political theory. In this section, we first clarify what we mean by *justice*, and then map out the different roles the state plays within the debate on *global justice* more specifically.

2.1 Justice: domestic and global

For present purposes, we understand justice as designating a special type of moral concern, one that gives rise to what Wesley Hohfeld (1917) called “claim rights,” correlative to obligations. Duties of justice, that is, are “directed duties,” *owed* to their recipients.³

This formal characterization of justice is still too broad for our purposes. Here we are specifically concerned with a subset of rights, namely those that have to be secured for a *socio-political system* to qualify as just.⁴ Socio-political justice, in turn, comprises two categories of rights: substantive and procedural. Substantive rights guarantee access to relevant goods, including individual freedoms as well as socio-economic resources. Procedural rights provide entitlements to decision-making, to participating in defining the system of substantive rights one is subjected to.

It is important to emphasize that, by defining justice in these terms, we both exclude some domains from our analysis—e.g., we exclude “justice in the private realm”—and include others. Socio-political justice as we understand it encompasses, for instance, classical concerns of both “socio-economic” justice (e.g., Which socio-economic inequalities, if any, are justified?) and “political” justice (e.g., What is a just distribution of political power?).

Civil, political and socio-economic rights are widely acknowledged as crucial to the justice of *domestic* political systems: of states. A just state, many contemporary

³ Justice so construed is often contrasted with charity or beneficence. See, e.g., Barry (1991) and Buchanan (1987).

⁴ In other words, we ignore other categories of rights, such as those generated by friendship, promising and personal or professional relationships more generally.

theorists hold, is one that grants its members *equal* individual freedoms, equal access to socio-economic opportunities, and *equal* rights to political participation.⁵

Over the past four decades it has become increasingly evident that the global realm is also a complex rule-governed system, and arguably one that is susceptible to justice-based assessments. Recognition of this fact is behind the burgeoning debate on global justice. Much of this debate revolves around two questions. The first asks whether we may evaluate the global realm by reference to the same standards that we routinely employ at the domestic level, or whether some, if not all, principles of justice are scope-restricted. The second asks how justice can best be realized. In other words, the debate includes two levels of argument: one concerns the *justification* of principles of justice (i.e., their scope and content), the other their *realization*.

2.2 Global justice and the state

At the *justificatory level*, different theories of global justice offer different substantive principles requiring the fulfilment of specific sets of rights beyond the state. The principles in question share the following structure:

Right-holder (R) is entitled to certain objects (O) against duty-bearer (D) on grounds (G).

While sharing a commitment to normative individualism—that is, to the role of individuals as *ultimate* units of moral concern, entitled to the social conditions to lead autonomous lives—theorists of global justice are divided between those who believe that the state plays no role at this justificatory level, and those who believe it does. The former are so-called “cosmopolitans” who, for a variety of reasons, see the state as irrelevant to the determination of the scope and content of principles of justice.⁶ For them, none of the parameters in our four-place relation may be specified by reference to the state (see, e.g., Caney 2005; Beitz 1983; Goodin 1988; Pogge 1989).

The latter are an internally diverse group, ranging from so-called “statists,” to “internationalists,” to “transnationalists,” and others (see, e.g., Nagel 2005; Blake 2001; Sangiovanni 2007; Risse 2006; Ronzoni 2009; Forst 2001; Valentini 2011; Meckled-Garcia 2008). For them, the state constitutes an appropriate specification of one or more of the parameters characterizing our four-place relation: a right-holder (recipient of justice/R), a duty-bearer (agent of justice/D), a ground of justice in general (G) and/or a ground of specific principles of justice with particularly demanding, egalitarian content (i.e., principles with a distinctive object O).⁷

It is important to emphasize that theorists belonging to the latter group diverge widely with respect to both: (i) the specific justificatory role they attribute to the state, and (ii) whether they regard the state as the *only* factor determining the scope and content of justice. For instance, some believe that states are themselves right-holders and/or duty-bearers; others do not. Some, most prominently Thomas Nagel (2005), ostensibly hold that obligations of justice arise *only* within the state. Others insist that there are additional grounds of justice—e.g., common humanity, common ownership of the earth, the global trade system, the international human rights regime etc.—

⁵ Of course, there are exceptions to this general statement, but at least liberal-egalitarian theorists (despite their differences) all appear to be accurately characterized by it.

⁶ Cosmopolitans may of course consider the state relevant to the application of those principles—or, in G.A. Cohen’s (2003) words, to the design of “rules of regulation.”

⁷ In the literature we address, these are usually liberal-egalitarian principles of socio-economic justice and democratic accountability.

giving rise to rights-correlative obligations beyond the state, though less demanding than those existing within it (e.g., Blake 2001; Risse 2012; Sangiovanni 2007). Others still claim that the justice-relevant features exhibited by the state—e.g., coercion and domination—are also present, to a lesser degree and/or in different forms, beyond borders, and that this generates demands of “transnational” as well as “global” justice (Forst 2001; Valentini 2011). What matters for present purposes is that, despite holding substantively different views, these theorists share a commitment to the justificatory relevance of the state, in opposition to cosmopolitans’ denial of such relevance. Our claim in Section 3 will be that the correct position to hold lies somewhere within this camp, but fairly close to its most demanding end.

At the *realization level* of argument, theorists of global justice set forth institutional proposals which, in their views, would facilitate the fulfilment of their preferred principles of (global) justice. Interestingly, a denial of the relevance of the state at the justificatory level need not be accompanied by a denial of its instrumental relevance, and vice versa. Here too, the literature exhibits some interesting divisions.⁸ Some—both cosmopolitans and anti-cosmopolitans—see the state as an indispensable vehicle for the realization of justice, on grounds of its capacity to apportion and enforce rights and responsibilities, and to mobilize individuals’ sense of justice (see, e.g., Ypi 2012; Goodin 1988; Stilz 2009). Others, by contrast, perceive the state as we know it as an obstacle to the realization of global justice, and recommend its radical reform or replacement with vertical and horizontal systems of dispersals of sovereignty, or with global democratic decision-making structures (see, e.g., Pogge 1992; Kuper 2000; Macdonald 2008; Bohman 2007; Archibugi 2008; Cabrera 2004).

This brief sketch has hopefully provided readers with a flavour of the complexity of the debate on global justice, and the roles the state plays in it. But what conceptualizations of the state underpin those various roles? And which appeals to the state are successful, and which ones are not? The remainder of the chapter answers these questions, focusing first on the roles that the state plays at the justificatory level (Section 3), and then at the level of realization (Section 4).

3. Justification, global justice, and the state

As we have already mentioned, from a justificatory perspective, the state has been invoked by theorists of global justice—mostly of an anti-cosmopolitan disposition—in the following roles or capacities:

- i. as a ground of justice (G)—in general, or in relation to egalitarian principles (i.e., principles with a particular object O)
- ii. as an agent/bearer of duties of justice (D)
- iii. as a recipient of justice/right-holder (R)

We discuss each in turn.

3.1 The state and the grounds of justice

By the “grounds of justice” we mean “the reasons why claims of justice apply to a particular population” (Risse 2012, 2). In recent years, participants in the global-justice debate have appealed to state membership as a relevant ground for the application of *egalitarian* principles of justice in particular (see, e.g., Nagel 2005;

⁸ These differences are, however, less stark than those we encounter at the justificatory level. Very few would hold that the state has absolutely no role to play when it comes to the realization of justice.

Blake 2001; Sangiovanni 2007; Risse 2006). While sharing the conclusion that egalitarian justice only applies domestically, these theorists have reached it through different lines of argument. Two are particularly prominent in the literature, and articulated in their best-known forms by Michael Blake (2001) and Andrea Sangiovanni (2007).⁹

According to Blake, there are two fundamental grounds of justice. One is *humanity*: everybody is entitled to the necessary means to lead an autonomous life simply in virtue of being a person. Since this only requires having *enough* to formulate and pursue a life-plan, humanity generates principles that are global in scope, yet only *sufficientarian* in content. Blake's second ground of justice is *state coercion*. He observes that some of the resources necessary for individuals to be able to lead autonomous lives—such as the rule of law, food security, basic health care and education—can only be delivered through the coercive apparatus of the state (Blake 2001, 280). Yet state coercion triggers additional justificatory requirements, because it is *prima facie* problematic from the viewpoint of autonomy: it appears to “bend the will” of its targets, thereby preventing them from being genuinely self-determining. For Blake, state coercion can be made fully compatible with autonomy only if it is exercised in line with *egalitarian* standards of justice (Blake 2001, 293). Specifically, to qualify as just, coercive institutions must: (i) grant all subjects equal access to basic freedoms and socio-economic goods, thereby equally protecting everyone's material conditions for autonomy; and (ii) be under all subjects' equal control, thereby ensuring that subjects “coerce themselves.” Since the *function* of egalitarian justice is to render state coercion fully compatible with autonomy, there is no reason for *egalitarian* justice to apply when such coercion is absent.

Like Blake, Sangiovanni (2007) holds that the state is the key site of application of egalitarian justice, but not due to its coercive nature. As he illustrates, if a functioning state were temporarily to lose its coercive capacity, we would not think that egalitarian obligations among its members would thereby automatically vanish (Sangiovanni 2007, 10–11). In order to understand why it is that members of the same state have egalitarian obligations towards one another, he argues, we must concentrate on *what the state does*, rather than on *how* it does it (i.e., the coercion it exercises along the way). The point of the state, in Sangiovanni's view, is to enable the kind of *social cooperation* crucial to produce the collective goods necessary for—what Blake would call—an autonomous life. Sangiovanni then goes on to argue that, for such social cooperation to embody genuine reciprocity, rather than be exploitative, its benefits and burdens must be distributed along egalitarian lines (Sangiovanni 2007, 26).

Blake and Sangiovanni give us different—though arguably compatible, and mutually reinforcing (cf. Risse 2006)—reasons for regarding the state as a privileged site of egalitarian justice. But what conceptualizations of the state do they employ? Since their discussions are opaque in this respect, our observations are somewhat conjectural. To the extent that, as it is often assumed, only *agents* have the ability to coerce—i.e., to issue commands backed by the threat of sanctions—Blake's view appears to (implicitly) presuppose an agential perspective on the state. Sangiovanni's, by contrast, seems to conceptualize the state as both a set of institutions embodying

⁹ Nagel's (2005) work is of course also much-discussed, but somewhat less transparent in its underlying normative rationale (which includes reference to coercion, authority and co-authorship). We thus do not directly address it in our discussion. For a critical analysis of Nagel, see, e.g., Julius (2006).

particular patterns of cooperation, and an agent with distinctive “extractive, regulative, and distributive capacities” (Sangiovanni 2007, 20).

If these observations are correct, those aspects of Blake’s and Sangiovanni’s arguments that presuppose an agential perspective on the state are susceptible to criticism on the part of those who reject the idea of collective agency. For present purposes, we shall not challenge the notion of group agency, or the role it might play in Blake’s and Sangiovanni’s views; instead, we only emphasize the need for theorists who regard the state as justificatorily significant to be more explicit about their conceptualizations of it, and what follows from them.

More importantly, does treating the state as justificatorily significant— independently of how it is conceptualized—succeed in restricting the scope of egalitarian justice to the domestic arena? There already exists a rich literature on this issue. Several authors have pointed out that more work needs to be done to demonstrate that state coercion and domestic cooperation are necessary—or even sufficient—to ground egalitarian justice, let alone to limit its reach to the domestic arena (see, e.g., Abizadeh 2007; Caney 2008; C. Barry and Valentini 2009; Cavallero 2010). Our aim in what follows is not to review this literature, but to suggest that Blake’s and Sangiovanni’s premises, which we grant for argument’s sake, do not vindicate statist conclusions, i.e., they do not vindicate confining egalitarian justice to the state. Rather, those premises, coupled with plausible empirical observations, push us towards a more nuanced picture of justice beyond borders, one situated somewhere between statism and cosmopolitanism. What we offer, then, is a modest internal critique of the statist conclusions allegedly following from Blake’s and Sangiovanni’s views.¹⁰

Our internal critique begins with the simple—and frequently made—observation that coercion and cooperation have fuzzy contours in a globalized world. This applies not only to coercion and social cooperation simpliciter, but specifically to those forms of autonomy-enabling coercion and cooperation that Blake and Sangiovanni regard as grounds of egalitarian justice. States still constitute crucial areas of *concentration* of these phenomena, but the scopes of both Blake’s coercion and Sangiovanni’s social cooperation do not perfectly coincide with their borders.

Let us start with Blake’s coercion-based statism. Blake argues that exercising coercion over people and yet affecting them unequally, or not giving them equal control over the forms of coercion they are subjected to, is equivalent to disenfranchising them. In Blake’s words, domestic socio-economic inequality is “like a denial of suffrage” (Blake 2001, 295). Recall that, on his view, state coercion is (i) required to secure the means that are necessary for autonomy, and (ii) justified only if its exercise satisfies demanding egalitarian standards. Blake, however, seems to presuppose, rather than establish, that the *kind* of coercion that matters (namely the one that is will-bending, yet necessary for autonomy) only happens within state borders. We shall provide a couple of examples to show that, in the world as it is today, (i) the state is *not* the only “provider” of the relevant autonomy-enabling coercion and (ii) many states *do not* have the capacity—hence the duty—to coerce their populations in line with egalitarian standards. In other words, we can be both enfranchised or disenfranchised, in Blake’s specific sense, by coercion *other than* state coercion.

¹⁰ For an external critique, which denies that coercion and/or cooperation are either necessary or sufficient grounds of egalitarian justice, see Caney (2008).

Regarding (i), consider the following three cases. For members of the Council of Europe, ultimate protection against human rights violations is granted by the European Court of Human Rights. For EU market actors, a system of reliable expectations and non-discrimination in the market is ultimately guaranteed by the enforcement of EU competition and non-discrimination law. Similar remarks, finally, can be made about the common currency in the Eurozone. In sum, three different kinds of (a) supranational, yet not fully global institutions exercise coercive power to guarantee certain goods that are necessary for autonomy, yet (b) each of them in certain limited (and different) areas only. What seems to follow, for the coercion view, is neither statism nor cosmopolitanism, but a more complex view. The necessary means for autonomy seem to come from different sources, rather than from the state only, depending on the different institutional web in which we are involved (Council of Europe, EU, Eurozone). What would seem to follow from Blake's account is that the individual citizens of member-states of these three institutions are entitled to egalitarian standards, not across the board, but in those areas where they are subject to the same forms of coercion. Greeks, for instance, would be entitled, not to the same overall *standards of living* as Germans, but (a) to an equal share of the burdens and benefits of having a common currency, and (b) to an equal control over the conditions of the Euro governance itself.

Regarding (ii), it is not clear that states have the *capacity* to secure demanding egalitarian standards of socio-economic and political justice for their citizenry. Take, again, the case of the Euro governance. If the regime of austerity continues, several member-states will have little capacity to implement those redistributive policies that are necessary to realize domestic equality. In these cases, state coercion does not meet the standards set by Blake for domestic justice, yet the reasons why this is the case are not themselves entirely domestic. Again, it seems that *part* of what justice requires in those cases is an adjustment *at the Eurozone level* so as to give member states the power to comply with their obligations of domestic justice.¹¹ Since “ought implies can,” individual states, *qua* collective agents, cannot be under an *obligation* to secure full-blown equality—as Blake would have it—if they do not have the capacity to do so.¹²

Structurally similar remarks can be made in relation to Sangiovanni's cooperation-based view. Sangiovanni argues that egalitarian demands stem from social cooperation in the production of goods necessary for autonomy, including the rule of law, safety, security, and a reliable system of expectations. Yet, for reasons similar to those we have mentioned with respect to coercion, it is neither clear that, today, (i) *all* of these goods are *always* provided via state-based cooperation, nor that (ii) states have full capacity to produce these goods. With respect to (i), Sangiovanni himself has acknowledged this point, by developing, for instance, an account of the intermediate obligations of social justice which hold within the EU (Sangiovanni 2013). With respect to (ii), several transnational dynamics—such as global financialization, the global nature of production chains, or international tax competition—arguably constrain the capacity of states and their members to secure an egalitarian distribution of the benefits and burdens of social cooperation (Dietsch and

¹¹ For a coercion-based account of justice beyond borders more explicitly sensitive to these nuances, and which controversially regards non-agential systems of rules as also coercive, see Valentini (2011).

¹² Blake argues that coercion exercised by international institutions is indirect and less comprehensive, and therefore less problematic (Blake 2001, 280). If our picture is correct, however, we live in a world in which different forms of justice-relevant coercion occur in different loci, making the state a particularly significant node of concentration, but not qualitatively unique.

Rixen 2014). Once again, if “ought implies can,” states cannot plausibly be under an *obligation* to secure egalitarian justice; not until their capacity to fulfill egalitarian demands has been restored. In Sangiovanni’s own words, equality as a demand of justice only applies to institutions with “autonomous distributive, extractive, and regulative capacities” (Sangiovanni 2007, 22). Our point is that, today, many states have those capacities eroded “from the outside.”

If our analysis is correct, the two most prominent appeals to the state as a ground of egalitarian justice provide reasons to assign a special, but not exclusive, role to states at the justificatory level of argument. In particular, such appeals fail to vindicate “statist” conclusions—according to which egalitarian justice applies *only* domestically—pointing instead towards more nuanced approaches.

3.2 *The state as a bearer of duties of justice*

Some theorists explicitly appeal to the state as a uniquely capable *bearer* of demanding duties of egalitarian justice to rebut cosmopolitan—i.e., “global egalitarian”—conclusions. These theorists point out that principles of justice prescribe securing complex patterns of entitlements within given populations. They further note that only particular kinds of agents or entities have the *capacity* to act on those principles. These must be agents epistemically and socially powerful enough to foresee, and correct for, the cumulative effects of many people’s actions. Yet only large-scale, authoritative institutional agents have this ability, since “[...] authoritative institutions can preserve patterns of distribution and individuals cannot. They are able to do this because they can assign duties and responsibilities that are not assignable in the absence of an authority” (Meckled-Garcia 2008, 255; cf. Nagel 2005). Rawls (2013, 266) himself is fully aware of the fact that the cumulative consequences of the actions and transactions of a large number of agents “are often so far in the future, or so indirect, that the attempt to forestall them by restrictive rules that apply to individuals would be an excessive if not an impossible burden.” These consequences can only be regulated, and certain patterns of entitlements maintained—what Rawls calls “background justice”—by complex institutional agents.

Crucially for our purposes, while agents with the relevant capacities exist at the domestic level, in the form of states, they do not exist at the global level. And since “ought implies can,” the absence of agents capable of acting on the demands of egalitarian justice beyond the state means that those demands do not apply at the global level. As Meckled-Garcia puts it:

[P]utative, properly cosmopolitan principles, demanding background adjustment in line with a domestic conception of justice, are *incomplete* due to our inability to identify a relevant agency [...] (Meckled-Garcia 2008, 267 emphasis added).

The incompleteness can be easily illustrated by reference to our four-place relation.

Right-holder (R) is entitled to certain objects (O) against duty-bearer (D) on grounds (G).

Cosmopolitan egalitarians argue that all human beings (R) are entitled to equal access to socio-economic goods (O) on a variety of grounds (G). But Meckled-Garcia and others object that there is no agent who can plausibly occupy the position of a duty-bearer (D), because no agent (or set of agents) has the ability to secure equal access to socio-economic goods worldwide. Cosmopolitan principles of justice are thus

incomplete because one of the relevant parameters in our four-place relation remains empty.

Importantly, proponents of this argument acknowledge that *some* principles of justice apply beyond the state, but these are only either (i) interactional principles which each and every state, conceived as an agent, can abide by (e.g., mutual respect and assistance) or (ii) institutional principles which existing supranational institutions have the power to comply with (such as fair rules of trade with respect to the WTO). For both the above demands of justice, putative duty-bearers can be identified, but not for the fulfillment of demanding egalitarian standards between all individuals across the globe.

What to say about this line of argument? First of all, it is worth pointing out that it relies on an agential, as opposed to institutional, conceptualization of the state. This, in turn, means that those who find the somewhat controversial idea of group agency problematic will not be persuaded by it. As anticipated, here we are not challenging the idea of group agency. So, granted collective agency, does the role of the state as uniquely capable of securing the demands of egalitarian socio-economic justice genuinely undermine cosmopolitan principles? In what follows, we suggest that it does so *only to a limited extent*—thereby reinforcing the conclusion reached in the previous sub-section. In particular, we rely on two arguments.

The first concedes the premise that domestic states are uniquely capable of securing demanding egalitarian justice for their citizens, and that no equivalent agent exists at the global level. This concession does indeed lead to the conclusion that cosmopolitan principles of global justice, in the world as it is today, do not have *immediate normative* force. That is, they do not set forth immediately action-guiding prescriptions, since there is no agent capable of acting on those prescriptions. From this it follows that, strictly speaking, nobody has the *rights* set out by cosmopolitan principles because rights consist in duties *owed* to particular others, and the relevant duty bearers do not exist. However, granting that cosmopolitan principles of justice do not have direct *normative* force does not invalidate their *evaluative* role (on this distinction see Gilibert 2011; Gheaus 2013).¹³

Instead of prescribing what agents ought to do, cosmopolitan theories enable us to evaluate states of affairs. Of course, evaluating states of affairs as regrettable is not enough to condemn them as “unjust,” if injustice is defined as the violation of rights. Yet, despite not being directly action-guiding, evaluative statements are still informative. For instance, in the case of cosmopolitanism, they tell us that the absence of an agent capable of realizing global egalitarian justice is morally regrettable.

What is more—and this brings us to our second argument—the “no duty-bearer, no injustice” view must be qualified in non-trivial ways to remain plausible. We have already alluded to how it is not at all clear that the state, in an increasingly globalized world, is genuinely capable of performing its justice-tasks for its own citizens. What we might call *global* background injustice erodes state sovereignty and renders states increasingly unable to secure some of their citizens’ most important rights (Ronzoni 2009). The global financial crisis of 2008 is clear evidence of this, and so are globally harmful phenomena such as tax competition (Dietsch and Rixen 2014), financial volatility (Wollner 2014) and the transnational, fragmented character of global production chains. States are increasingly challenged in their capacity to

¹³ Incidentally, the evaluative understanding of “justice” seems to be what G.A. Cohen (2003, 243) has in mind when he asserts the importance of political philosophy even when this makes “no practical difference.”

maintain just socio-economic patterns at the domestic level, and these challenges have global causes over which individual states, by themselves, have little if no control. This is a standard case of background socio-economic injustice.

Similar observations can be made about the procedural (“political”) side of justice—which is somewhat less emphasized in the mainstream “global-justice” literature. Specifically, as a result of these global dynamics, states are pressurized into being more responsive to global financial markets, rating agencies, multinationals, and international organizations championing austerity-based reforms, and less to their own citizens through mechanisms of accountability and legitimation (democratic or otherwise). Under these circumstances, the same argument that renders egalitarian principles of justice *not* fully normative at the global level erodes their normativity—albeit to a lesser extent—at the domestic level too. States are, as Peter Mair (2013) puts it, “hollowed out” in their agency and capacity (see also Mair 2009; Ronzoni 2012; Laborde and Ronzoni forthcoming). Therefore, if the “no duty-bearer, no injustice” view is accepted all the way down, one unpalatable conclusion follows: *few* socio-political injustices “proper,” whether domestic or global, occur in such a scenario, for no capable agents can be identified as the bearers of duties we routinely regard as a matter of justice. This would imply that justice can do little work where it is most needed. The critical capacity of the very notion of justice would be seriously undermined.

There is, however, a possible compromise that might allow us both to use the language of justice in cases where no fully capable agents exist and to retain a not merely evaluative understanding of this notion. Interestingly, the possibility of such compromise is forestalled by the examples we have just offered. If the brief analysis sketched above is correct, global institutions are needed to address global dynamics like harmful tax competition, the volatility of global financial markets, the fragmentation of global production chains and global industrial relations, and so forth. This being so, we can say that we have obligations to do what is in our power to bring about these new institutional frameworks.¹⁴ Such obligations might not have perfect contours, but they certainly constrain the set of actions we may permissibly perform in a number of ways (cf. Abizadeh 2007; C. Barry and Valentini 2009, 497–98; Valentini 2011, 103–104).¹⁵

We can thus again conclude that an emphasis on the state, this time as an agent of justice, is less effective than statist believe in limiting the reach of (egalitarian) socio-economic and political justice to the domestic realm. The claim that demanding principles of justice can only apply within state borders because only states are capable of acting on those principles relies on an unduly idealized account of state agency. What is more, these observations should induce us to take the link between justice and capable agency with a modicum of caution. Whereas it is true that justice, to remain distinctive, cannot be a merely aspirational value, the stipulation of a fully capable agent as a necessary condition for principles of justice to apply may lead to the somewhat unpalatable conclusion that in our world (and in many other past and possible worlds) very few injustices proper occur (cf. Gheaus 2013).

¹⁴ Cf. the notion of a “meta-right” (Sen 1984), and the natural duty of justice to “further just arrangements not yet established” (Rawls 1999a, 99).

¹⁵ Whether these obligations are sufficiently specific to be obligations of justice proper (i.e., correlative to claimable rights) is an issue we cannot solve here. We think, however, that such obligations would be more than merely aspirational. For further discussion see Valentini (2014).

(c) *The state as a recipient of justice/right-holder*

To conclude our critical survey of the role of state from a justificatory point of view, it is worth addressing one final position, according to which the state, if internally constituted in normatively appropriate ways, is itself the holder of rights at the international level. The argument resonates with traditional claims to sovereignty and non-interference on the part of states.

The strongest philosophical formulation of these claims has been offered by Immanuel Kant (1999/1797) and, more recently, by contemporary Kant-inspired authors (Rawls 1999b; Stilz 2009; Flikschuh 2010).¹⁶ For our purposes, one right is particularly relevant: the state's right not to be subjected to coercion (Flikschuh 2010). If states cannot be compelled, global institutions realizing putative demands of justice beyond borders can only be voluntary and state-driven, without exercising any direct, ultimate authority. On this view, forcing a state to join a supra-national institution on grounds of justice would be a contradiction in terms, since compelling an appropriately constituted state is *ipso facto* unjust.

What to say about this final position? To begin with, it must be stressed that this position, too, conceptualizes states as (moral) agents, and is therefore susceptible to objections on the part of those who find the notion of collective agency problematic. This is not going to be our line of criticism, however, since we are not questioning group agency for present purposes. An assumption we are instead making—following the bulk of the literature—is normative individualism, according to which only individuals are ultimate units of moral concern. The rights of states qua corporate agents must therefore be both (i) ultimately *grounded* in the rights of individuals and (ii) *consistent* with those rights. Note that this is a point about group agency in general. To illustrate, the status of some voluntary collectives (e.g., private associations) as moral agents is *grounded* in their being expressions of some individual, autonomy-based rights (such as the right to freely associate). This standing, though, is also conditional on their existence and operation being *consistent with* the rights of both members and non-members (see, e.g., List and Pettit 2011, chap. 8).

Unlike membership in private associations, state membership is typically *non-voluntary*. Consequently, the moral standing of states cannot be grounded in their being an ostensive *expression* of individual autonomy. Instead, as Blake and Sangiovanni helpfully illustrate, their moral status stems from their being *necessary means* for the protection of individual autonomy (cf. also Stilz 2009). States acquire rights as corporate agents insofar as (and to the extent that) they are uniquely positioned to secure the essentials of individual autonomy. We might say, therefore, that conferring rights on states is necessary for states to fulfil their role as duty-bearers towards individuals, and that their enjoyment of rights is conditional on that. Moreover, like voluntary collectives, their existence and operation must be compatible with the rights *of all*. Their enjoyment of rights is consequently *qualified* in two crucial ways.

First, internally, they must secure those individual rights the protection of which *grounds* their status as right-holders: e.g., access to the rule of law, security, political participation and socio-economic resources. If states fail to secure those rights, their status as right holders becomes questionable. Externally, states must respect certain constraints towards outsiders: they must act consistently with their

¹⁶ Similar views may also be found among nationalists (e.g., Miller 1995; 2007), to the extent that states articulate the rights to self-determination of national communities.

rights. Again, when a state can fulfil its duties towards its own citizens only at the cost of, for instance, oppressing outsiders, its status as right-holder may be questioned.

Second, we have established that the state deserves the status of right holder only to the extent that it fulfils its duties. But in order to fulfil those duties—indeed, in order to bear those duties in the first place—it must be a *capable* moral agent. That is, it must possess (i) an internally sophisticated decision-making structure, and (ii) the ability to translate its decisions into “external” actions. In particular, it must be an effective agent relative to those areas for which its being an agent is necessary for the protection of individual rights. As we have seen in the previous subsections, however, it is by no means clear that many states currently meet this capacity-condition. But if the capacity of states to secure just socio-economic standards and just political relations is undermined—i.e., if they lack *the capacity* to stand in the right kind of relationship with their own individual members—it is not clear that their compulsion ought to remain unqualifiedly impermissible.

Once again, we seem to be pushed towards a more nuanced position. On the one hand, states can be right-holders, but only conditionally on meeting certain standards. On the other, with respect to their right not to be compelled in particular, the empirical conditions to disable it, or at least to qualify it significantly, do obtain in our world. Since states currently lack some of the capacities that justify their status as right-holders, we need to supplement them with supranational institutions, which will limit their sovereignty and therefore exercise *some* compulsion upon them.

Our discussion of the justificatory role of the state in limiting the scope of justice has hereby come to a close. Our provisional conclusion is that a focus on the state, whether as a ground, agent, or recipient of justice, fails to justify uncompromising statism, and instead points in the direction of what we have called “intermediate” positions. What is, however, the role of the state in *realizing*, rather than justifying, principles of justice?

4. The state—a means, or an impediment, to the realization of global justice?

The role of the state in realizing principles of justice is as debated as its justificatory relevance, yet along different lines. Unsurprisingly, most statist see the state as the crucial vehicle through which domestic egalitarian principles of justice can be realized (Nagel 2005; Meckled-Garcia 2008). Cosmopolitans, by contrast, do not constitute an equally united camp. Whereas some think that the model of the fully sovereign state should be overcome and replaced by multi-level forms of governance or even by a world state (Pogge 1992; Kuper 2000; Archibugi 2008; Macdonald 2008; Cabrera 2004), others see the state as indispensable to sustain cosmopolitan allegiances and motivations (Ypi 2012) or as a way of distributing universal obligations (Goodin 1988).

Our assessment of the role of the state when it comes to the realization of justice will be brief, and largely build upon the observations sketched in Section 3. Recall that what leads Blake and Sangiovanni to identify coercion and social cooperation as *grounds* of justice is, at least in part, their *instrumental* role in securing, or realizing, the necessary means for autonomy; that is, their *capacity* to deliver autonomy-enabling goods.

We have rejected the association between either coercion or social cooperation and uncompromising statism on the grounds that (i) states are not the *only* loci of coercion and social cooperation of the relevant kind and (ii) the *capacity* of states to exercise these kinds of coercion and social cooperation is severely *constrained* in

many important areas under conditions of poorly-managed globalization. That is to say, we have challenged the justifications used for confining the scope of egalitarian justice to the state partly on the basis that such justifications both exaggerate and fetishize state *capacity* in the real world. This has clear implications for our views on the role the state can plausibly play in *realizing* justice.

On the one hand, we already live in a world where institutions other than states are *necessary* to secure certain rights. On the other, the capacity of states to secure justice, in both socio-economic and political terms, is severely constrained, due to transnational socio-economic dynamics that affect states internally and are beyond their control. As already noted, it is therefore plausible to presume that further global institutional building will be necessary to address such dynamics, and that these new institutions will further constrain the role of states, at least in some respects.

This means that, *even* from a statist justificatory perspective, the realization of justice requires *at least* some of those already existing global institutions, and probably further ones (cf. Ronzoni 2009). This is equally, if not more, true for cosmopolitans. Cosmopolitans who wish to rely on states as instruments for the realization of global justice—e.g., on account of states’ motivational and organizational capacities—must also recognise that some of these capacities are severely challenged, if not gone for good, and that the state therefore requires, at a minimum, external institutional support. In fact, many of them do.

Whether this implies that we should move towards a radical restructuring of the world order, along the lines suggested by advocates of multi-level systems (Pogge 1992) or a world state (Cabrera 2004), or whether more modest and incrementalist projects can be sufficient is an issue that we cannot address here. The answer to this question will ultimately depend on which view one takes on the *positive* role of the state for the realization of justice. It could very well be that, even if the state system is imperfect, states remain valuable instruments to realize justice for the motivation- and coordination-based reasons Ypi (2012) and Goodin (1988) mention. Moreover, it is fairly plausible to assume that states remain, on balance, more likely to be accountable to their own citizens than more complex systems of global governance. Finally, the very quality of democratic processes, and ultimately political justice, might be better secured within states given, for instance, the presence of a more cohesive demos (see, e.g., Dahl 1999; Miller 2010). All these factors might, on balance, give us reasons to preserve states as important loci of decision-making. If what we have argued is true, however, these are grounds to favour fairly modest agendas of global institutional design over fully transformative models—not reasons for defending a system of fully sovereign states.

Conclusion

In this chapter, we have surveyed the different roles played by the state in debates about both the justification of principles of (global) justice and their realization. Even though the main purpose of this chapter has been analytical and expository, our discussion points in the direction of a family of substantive conclusions about global justice; conclusions that lie in between “pure statism” and “pure cosmopolitanism.” At the levels of both justification and realization, we have suggested, the state may well matter to justice, but not in an all-or-nothing manner. While it is, plausibly, a key site of egalitarian justice, it is not the only such site: some egalitarian principles of justice also apply beyond borders. And while the state is an important means to the realization of justice, it is not sufficient: it needs to be partly reformed and supplemented to secure the demands of justice in a globalized world. Whether such

“intermediate conclusions” are fully defensible, especially against cosmopolitan objections, is a question for another day.

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