

Natural duties of justice in a world of states¹

Saladin Meckled-Garcia, University College London
s.meckled-garcia@ucl.ac.uk

Abstract: The agency objection to applying distributive justice globally is that principles of distributive justice need to apply to the behaviour of a special kind of institutional agent of distributive justice because of the special powers of that agent. No such agent exists capable of configuring cooperative arrangements between all persons globally, and so distributive justice does not apply globally. One response to institutional views of this kind is that it does not rule out Natural Duties of Justice that fall on all of us to bring about institutional agencies capable of global distributive justice. In this paper I argue that this move presupposes a particular, teleological, conception of justice whilst institutional accounts most plausibly rest on a non-teleological one. I provide an argument for favouring the non-teleological conception. I also show why alternative ways of arguing for global Natural Duties of Justice do not get around this controversy. The debate is at the level of presuppositions about justice, and relying on a partisan conception is question begging.

In our world no single authority controls how social rights and duties are configured for all persons globally. If that is true, can the idea of distributive justice between all citizens of the globe have any practical meaning? The agency objection to *global cosmopolitanism* says that principles of distributive justice must address a clear agent type, one capable of exercising the special institutional authority needed to decide between different cooperative arrangements into which it can place people. Distributive justice means an agent doing that in a fair way—imposing social cooperative relations in which benefits and related burdens are fairly distributed.² Without such an agent there is no clear addressee for these fairness imperatives—no agent that can treat people fairly or unfairly in this sense—and so no practical subject to which standards of distributive justice are appropriate. The objection in this way links distributive justice to clear practical reasons for a specific agent and claims no such agent exists globally. But a now common response is that the presence of institutional agency is merely a *feasibility condition* for implementing justice.³ Whether justice is currently feasible is, however, irrelevant to whether the concepts of justice and injustice apply in a given sphere. Those concepts are about distributive outcomes for people, desirable patterns of distribution, such as secured equal opportunities, continued improvement of life chances for the worst-off, or global basic interest fulfilment. The absence of the relevant outcome is itself an *injustice* and the absence of institutional agents capable of arranging that outcome is just a feature of that injustice. This view separates implementation of justice by a capable agent from the content of justice which focuses on distributive outcomes. On this view, practical reason simply refers to whatever is necessary (within what is practicable) to bring about a desired outcome. In the absence of implementing institutions globally, for example, we merely shift focus to individuals and their “natural duties” to create these institutions. Both the duties of institutions and individuals can be just or unjust in instrumental terms: according to their relation to implementing the outcome. The concepts of justice

and injustice on this view apply to people's conditions regardless of the presence of implementing agents because agents still exist with natural duties to bring about the implementing agents. Call this the "Natural Duties of Justice" (NDJs) response.⁴

The problem with this response, and its conception of NDJs, is the distinct and contentious account of distributive justice on which it relies. It takes distributive justice to firstly describe distributive outcomes for people (perhaps with some sensitivity to personal choice and responsibility in defining those outcomes). Implementing agencies, on this view, can be just or unjust only in a secondary or derivative way, in terms of whether they play an instrumental role. Institutional agency does not tell us anything about the core content of distributive justice, only how much justice is currently feasible. Yet, a plausible version of the agency objection can be framed as rejecting conceptions of distributive justice that focus on outcomes *independently* of considering what fairness can require of specific agents. Rather, it characterises distributive justice as how a special type of agent *treats* those over whom it legitimately exercises authority; justice *and injustice* are simply descriptions of the fairness or unfairness of its treatment of those people. What is special about the agent is its ability to impose different arrangements of socially recognised rights and duties, thus framing social-cooperative relationships. That can be done fairly or unfairly, which does not, as I will show, reduce to whether this agency aims to produce the most desirable outcomes. Only such an agent can, as I will argue, act in ways that are just or unjust in terms of distributive justice. If this conception of justice is coherent, then on it a natural duty to bring about global distributive institutions cannot be grounded in *that* sense injustice, given no legitimate authority is in a position to arrange social rights and duties either fairly *or unfairly* across the globe, though other moral standards may, of course, apply. NDJs to create such an agent, on the other hand, would have to be a different kind of moral standard: one focused on producing desirable outcomes, nor on fair treatment. As I will show, there are reasons to question natural duties based on outcome-desirability. The NDJ response against the agency objection, then, simply appeals to a concept of justice that is controversial to at least some versions of that objection and so begs the question against it.

In section **I**, I distinguish outcomes- vs treatment-focused conceptions of distributive justice, showing why they are indeed different and how global NDJs only make sense on the former: on the treatment-focused conception distributive justice and injustice only describe special qualities of institutional action. In **II**, I give one core reason to prefer a treatment-focused conception. This is the *argument from practical fairness*, which explains why global responsibilities of equal concern cannot apply directly to individuals. In **III**, I consider alternative grounds for global NDJs, given that relying on outcomes-focused conceptions of justice begs the question against the agency objection and conflicts with practical fairness. These alternative grounds include rescue duties, imperfect duties, human rights obligations, or reasons based in the arbitrariness of political membership. I argue that either these moral concepts are interpreted as versions of the outcomes-focused conception of justice, and so violate

practical fairness or, on plausible alternative interpretations, they do not actually support NDJs to bring about global distributive outcomes at all.

I – The deeper dispute

The idea that individuals have duties to “further just arrangements” when it is not too costly to do so originates in Rawls’ notion of natural duties of justice. However, Rawls proposed this idea in part as a solution to the problem of which moral duties apply to individuals in relation to the arrangements of rights and duties established by institutions that “apply to them”.⁵ Rawls here refers to institutions with powers to configure cooperative arrangements for specific groups of people.⁶ Yet theorists who argue that distributive justice applies globally hold that we have NDJs to [work to] supply *everyone* with institutions that can secure certain distributive outcomes. If there are good moral reasons why people should enjoy a certain distribution in the context of domestic political institutions the same reasons should justify their claim to enjoy that distribution even where the institutions that might arrange it do not yet exist.⁷ That claim is held against each and every agent in a position to establish institutions that will secure that outcome for all persons globally.

Outcomes-focused approaches

Distributive justice here is clearly defined, firstly, in terms of people’s conditions and applies to agency only in a derivative sense. It asks whether people have access to resources to satisfy important interests or whether a certain distributive pattern is in place for them, such as whether there is equal access to important goods for all, priority access for the least advantaged, equal opportunities to access these goods, or some other favoured set of outcomes. So, for example, Buchanan takes global justice to reside in the ‘Moral Equality principle’, which means that people are entitled as human beings to the secure or protected enjoyment of key interests (which in the global context Buchanan identifies with basic human rights). Institutions are instrumental to protecting these interests with obligations flowing from that aim. People, as agents, too have duties flowing from the aim, such as to avoid harming these interests or to secure them for others by helping to set up institutions capable of protecting them.⁸ Crucially, our protection-enhancing duties do not flow from the requirement that institutions treat those under their dominion rightly rather than wrongly; they flow from the value or desirability of everyone having these protections (the outcomes) given the value of “the interests that respect for basic human rights promotes”.⁹ Whether treatment is just or unjust on this view simply reflects whether it is aimed at securing these interests. By focusing on outcomes, theorists can say there are demands of distributive justice even where no one actively thwarts these interests.

It follows that this approach draws no fundamental distinction between a duty to secure basic interests for others, say by securing access to resources or protections, and a duty to respect those interests by not thwarting them.¹⁰ What matters is their secure enjoyment, not the route to securing it. The only consideration on the supply side is whether we can secure these interests for all others without “exorbitant” or “excessive” personal cost.¹¹ Nevertheless,

whether or not it happens to currently imply excessive costs does not change the characterisation of justice as secure access to the satisfaction of these interests and injustice as its absence. In fact, we can obviate “exorbitant” costs to ourselves by contributing to institutions that secure the interests less expensively. So, the point of the duties, the entitlements, remains constant whilst the requirements they imply for us are modified by the institutional landscape. If acting is excessively costly, that can mitigate what is demanded of us whilst the outcomes to which it aims remain unaffected. For Buchanan, the outcomes are certain secure levels of “well-being” for all which constitute the content of their rights. We, as agents, must do “what is necessary to ensure that their rights are not violated” meaning they do not suffer insecurity of their basic interests.¹² If the focus of justice is “basic human interests” of “such profound moral importance” that they “ought to be protected”, then we ought to take on significant burdens both to avoid endangering those interests, and to get them protected from third parties, by institutions.¹³

As I have highlighted, the justice of institutions’ decisions here derives from their instrumental role in securing the relevant just outcomes defining distributive justice. The justice of the outcomes, on the other hand does not derive from the justice of any action or decision. As applied to institutional behaviour, then, justice and injustice refer to whether such behaviour aims at producing the desirable distributive outcomes. The order of moral explanation is from the justice of outcomes to that of actions, and not vice versa, so that injustice can describe the absence of such outcomes even in the absence of institutional agents capable of acting securing them. This is also true of individual behaviour, which exhibits justice where people support or seek to establish institutions that can produce the relevant outcomes.

Caney too, explicitly adopts an outcomes-focused approach. In his account justice is a *pattern* of distribution and injustice is its absence. The justice of that pattern is also for him a separate matter from its implementation.¹⁴ Institutional, political, actors are “instrumental” to achieving justice.¹⁵ They are just or unjust in terms of how they serve the relevant outcome, which is to say in terms of their “impact on persons’ interests”.¹⁶ Injustice describes the fact that some people are in worse situations than others, irrespective of whether anyone imposes that disparity and irrespective of whether anyone can alter it.¹⁷ Thus justice applies to patterns of distribution first, and to institutions, as implementing agents, only in terms of how their actions serve such patterns. This allows Caney to characterise certain outcomes as just or unjust, fair or unfair, regardless of whether they are the product of just or unjust institutional treatment. Again, outcomes on this approach do not derive their justice or injustice from the fairness of an agent treating people in a certain way. Rather, institutional actions and decisions, however, do derive their justice and injustice from the outcomes they create or allow.

This same outcomes-focus and agent-instrumentalism is present in Abizadeh’s criticism of institutional views of distributive justice. For him, “social cooperation can indeed be a *demand*, not an existence condition, of justice” and “demands of distributive justice may arise not only when a scheme of social

cooperation *exists*, but also when it *ought* to exist.”¹⁸ This is because of the “appropriate distribution of benefits and burdens” it makes possible.¹⁹ He does not use the terminology of natural duties, but does say in relation to social cooperative institutions: “if a necessary constitutive or instrumental condition is missing, justice precisely demands the realisation of those conditions.”²⁰ What is unjust about circumstances without such institutions is the absence of that which those institutions are needed to implement—distributive outcomes—and institutional actions derive their justice from working to realise those outcomes for people.

The same view is implicit in Ronzoni’s claim that we can have a coherent sense of “background injustice” in the absence of such institutions because without them people will experience the unfair consequences of accumulated, but individually innocent, transactions.²¹ On this view, people suffer injustice by suffering the patterns of relative disadvantage that emerge over time, even if no specific agent is morally responsible, either by action or omission, for imposing conditions under which these patterns can emerge.²² Ronzoni, echoing Abizadeh, sees the absence of institutions capable of rectifying these emerging disadvantages as part of the injustice itself.²³ All of which implies that for these theorists justice and injustice are characteristics of certain outcomes or patterns of outcomes experienced by people, regardless of whether any agent is currently in a position to directly implement the better ones.²⁴ Agents that can correct these conditions are *instrumentally* relevant to justice and the avoidance of injustice;²⁵ their actions are derivatively just or unjust as feasibility conditions for justice;²⁶ and just and unjust treatment is itself defined in terms of the outcomes.

Views of this kind accept some degree of *mitigation* for duties to bring about the desired patterns of distribution. But they do not begin by asking what kind of burdens can fairly be imposed on agents for the sake of others, deriving the content of justice (and just outcomes) from that notion of fairness. Rather, the content of justice simply depends “on a proper recognition of what I owe you as a person” which is to do something about protecting your basic interests even if this implies “significant costs”.²⁷ When determining what these duties mean on a case-by-case basis we have some permission not to shoulder excessive sacrifices.²⁸ But how we can judge what is excessive is left unclear and we must anyway make every “non-excessive” sacrifice necessary to produce the right outcomes.

This is a *teleological* conception of distributive justice. It defines justice in terms of a valued aim—the outcomes—and derives what it requires from any agent from this aim, with the high threshold of practicality or excessiveness as the only constraint on what can be expected. By contrast, below I set out a view of distributive justice as a form of institutional treatment of persons the justice of which does not derive from outcome desirability. On the contrary, the justice of any given outcome depends on whether, in bringing it about, institutions thereby treat people fairly. Fairness here has two elements: both the benefit of the treatment and the burdens required to produce it. The distinction between outcomes-focused and treatment-focused conceptions of distributive justice has received little attention in debates on what constitutes the right pattern of

distribution, as protagonists have tended to presuppose the context of a political order, political community, or institutional agency.²⁹ Nevertheless, institutional agency is notoriously explicit in Rawls' description of the *subject* of justice and in Dworkin's explanation of the scope of equal concern.³⁰ Some authors do explicitly attack this non-teleological approach, arguing that the justice of actions can only be explained in terms of the desirability of the distributive states of affairs they aim to bring about.³¹ Others hold the contrasting view that what can be fairly required of people determines the fairness of the distributive outcomes they can produce.³²

The alternative approach

The non-teleological approach sees distributive justice as a quality of the behaviour of special types of institutions, and derives the justice of distributive outcomes from that. The special import of that behaviour also explains why distributive justice is restricted to evaluating how these institutions treat specific groups of people; it constitutes a kind of treatment that institutions cannot extend to or withhold from others outside the group. In simple terms, on this view justice is the answer to a special moral problem: given institutional agents exist, with special powers, how should those agents act.

Some institutions have the authority to configure arrangements of socially recognised rights and duties for a group of people, by which I mean rights and duties with social authority such as legal authority (I come to the basis of that below). That power is special. It actively and continuously places those people in relationships of *indirect and imposed* cooperation. It assigns rights to some and duties to others that uphold these rights in ways that lend social authority to those assignments. Some duties, such as respecting property, directly correspond to the rights; others, such as paying taxes, make the rights possible. Which means some people carry social burdens *for the sake* of the of others enjoying social benefits. These types of relations are not accidents of nature. They are due to institutional agencies exercising authoritative powers to choose between different possible social-cooperative arrangements of rights and duties.

This form of cooperation differs fundamentally from direct cooperation between individuals, which can exist without being arranged by institutions. Institutions can set an authoritative framework that fixes cooperative terms *ex ante* for everyone, and thus constrains personal cooperative decisions for those subject to the legitimate authority of these institutions. But individuals cooperating to achieve their own ends cannot configure that kind of framework. They cannot set the context of socially accepted rights and duties defining property ownership and its limits both for the co-operators and for everyone else. The same goes for rights to enter into contracts with particular protections, and rights to engage in certain forms of productive activity such as paid work. Yet control of such terms shapes and defines how people can engage in cooperation. This is an especially social form of cooperation the terms of which are not under the control of people through direct acts of cooperation which they do control. Direct inter-personal cooperation is of course subject to interpersonal moral standards such as reciprocity or fair dealing. But, a different kind of fairness is appropriate for

evaluating cooperative institutions' imposing of social right and duty arrangements on those subject to their authority.

Institutional cooperative arrangements link social benefits for some to the corresponding social burdens making them possible for specific others; a link that could not exist were it not for institutions with the power to set socially recognised rights and duties. Where the arrangements are beneficial to people they represent goods for them that are not separable from the social burdens imposed to make those goods possible. These benefits are therefore more than desirable items or consumables. They are irreducibly social goods, given that an arrangement of property rights, with a specific understanding of the extent and limits that ownership implies, requires institutions to assign the necessary burdens for upholding the arrangement for all. Each social-cooperative good extended to people thus reflects an arrangement by institutions where some shoulder burdens to allow its provision. Were it not for that institutionally imposed relationship—a form of institutional *mediation*—there could be no decisions to withhold or extend these special burden-imposed-for-the-sake-of-a-benefit goods to people. For that reason comparing people's enjoyment of such benefits with enjoyment of any given amount of non-social goods, whether in the state of nature or outside of it, fails to take into account all relevant moral matters.³³ The non-social goods do not require special burden-benefit relations to make enjoying them possible, unlike enjoying property. That it is *desirable* that someone enjoys non-social goods does not automatically raise the moral question of whether and why some specific other person should shoulder the relevant burden. With social cooperative goods the two questions are always entangled—arranging a social right implies at least prospective burdens for others.³⁴

This is important because with non-social goods we can ask whether one distribution is more desirable than another simply in terms of the goods or losses people have. With social goods, however, we must ask whether the distribution is fair given *how* the arrangements link burdens to benefits: whether it is fair that Jay shoulders these costs for-the-sake-of Kay enjoying these benefits. Institutions imposing such arrangements can show or fail to show equal concern for those subject to their cooperative requirements. For example, equal concern is breached where institutions impose duties on citizens to uphold rights beneficial only for an elite group. Direct cooperation between people lacks this component of a mediating agent exercising authority to create special cooperative relationships. Whilst direct interpersonal cooperation requires respect and reciprocal fairness in taking on burdens for mutual benefit, it is not reasonable to require of those entering into such direct cooperative agreements that in doing so they also arrange rights and duties for others to show equal concern for everyone's prospects over a lifetime. Individuals lack the social authority to make those kinds of arrangements by setting rights and duties to be recognised by all. Not only that, but taking on the burdens of doing this for all persons by modifying the terms of each transaction would undermine the whole point of direct interpersonal cooperation. It would prevent people using a mutually respectful means to achieve their own ends. Given the existence of social goods depends on institutional authority and its imposition of burdens, the

key question for any arrangement by such authorities is whether it shows equal concern to all those placed in cooperative relationships (on both sides of the imposed benefit-burden link). This is not least because each agent as well as recipient has a life to lead that is affected by burden shares. Thus the moral values governing this kind of distribution will be fundamentally different from those applying to direct interpersonal cooperation, where respect for consent and reciprocity are appropriate. As special third parties, mediating institutions have the special responsibilities of equal concern.

Teleological views of distributive justice, on the other hand, focus on goods such as satisfying people's needs that are not inherently social in this way. They may accept constraints relating to excessiveness of cost and feasibility, but these do not define what justice requires, only how much justice can be achieved at any one time. They do not incorporate a clear justification of any specific burden as fairly imposed, below this high threshold. They either ignore the fair burden question or assume it is settled by mentioning an "excessiveness" cap, though that is never clearly defined. Social cooperation does not raise any special moral question of fairness on these views and does not therefore ground any special concepts of justice and injustice.³⁵ It matters only in producing the desired outcomes. Teleological views cannot, then, say why equality demands any one person in the world carries the burdens for the sake of any other, only that everyone has a duty, under the high bar of non-excessiveness, to work towards the relevant outcomes for all.³⁶

The treatment-focused account, by contrast, focuses on a special standard of fairness for institutions that impose cooperative relationships on those subject to their authority. Whilst one can compare how people fare outside and inside institutional arrangement in terms of their bare conditions, one cannot make the comparison in terms of social cooperative goods. Those goods are essentially linked to the burdens of specific other people and so raise the question of whether these specific burden-benefit relations are fairly imposed by institutions. The view allows for the possibility, for example, that the same distribution in terms of bare goods might be fair in one case and unfair in another, depending on the associated burdens of producing it (even where neither breaches any high threshold of "excessiveness"). Simply comparing people's bare condition ignores this fairness component.

Crucially, on this account, the moral standards of distributive justice and legitimate authority to impose cooperative relationships are distinct. Distributive justice, the imposition of fair social cooperative relationships, presupposes institutions with moral authority to impose those relationships. Institutions can get it wrong as to what social fairness requires, and still exercise legitimate authority for their political community. However, this is why, within reasonable bounds, institutions must not fail to show equal *respect* to citizens in the form of fundamental rights.³⁷ One test for reasonableness in political and legal authorities is whether the institutions respect standards of treatment without which it could hardly be said that the institutions rule by anything other than coercion and threat. The standards minimally include human rights, the rule of law, authentic and working mechanisms for consulting citizens or

representing their interests in political deliberations (even if full democracy is not present), and some minimal rights in social and economic cooperation that allow people to be active participants of society.³⁸ The test for legitimate institutions is here based on the idea of genuine political community, rather than rule by violence. The way legitimate institutions treat those subject to them (within the *bounds* of legitimacy) thus represents the way the political community treats its members. A polity, on this view, might mistakenly but reasonably adopt a flawed version of distributive justice without thereby de-authorising its institutions. Legitimacy, here, does not turn on how a polity and its membership came about but rather whether institutions can meet the above tests for exercising powers to impose social rights and duties over a specific group of people.

The treatment-focused conception of distributive justice, then, is an answer to the question of how such authoritative institutions should act, given they have the above kind of special cooperation-configuring authority. It contrasts with teleological views in that they do not accord special responsibility for justice to any party: each and all are potentially responsible for producing outcomes. On the treatment-focused approach legitimate public institutions have a special relationship to a specific group of people that they are able to treat either fairly or unfairly in arranging special social cooperative relations between them. On the teleological view injustice can simply mean the absence of relevant outcomes, where they might be produced by “non-excessive” burdens. On the non-teleological view distributive injustice is wrongful treatment by cooperation configuring institutions, given the different arrangements open to them to impose, such as where they fail to show equal concern to those under their authority. Both distributive justice and injustice are standards applying to a specific agent’s choices and behaviour on this view, and cannot apply in the absence of an agent capable of that behaviour.

Public institutions impose some duties on people outside their particular political community, such as duties not to cross their borders under certain circumstances. However, in doing this, institutions do not arrange an on-going cooperative relationship between those inside and those outside a state. They cannot, for example, arrange property rights or income tax for those outside of their jurisdiction. They cannot, therefore, arrange social goods in a way that shows equal concern to all persons as co-operators enjoying social benefits or shouldering corresponding burdens. So, while some moral standards apply to border powers on this view they are just not the same ones applying to how on-going cooperative relations should be arranged. Similarly, whilst a scheme of globally recognised property rights exists, no authority or group of authorities can configure these for all. The recognition and adjudication of such rights, as reflected in international private law, derives from the moral legitimacy of domestic arrangements; no non-domestic form of legitimate authority exists to create and impose property rights. The internationally recognised rights and duties of states, including territorial rights, on the other hand, are part of a system of custom, sometimes codified through treaties the legitimacy of which also derives from the legitimacy of domestic institutions. Even if these sources were illegitimate, there is no alternative source of legitimate authority capable of

altering or legislating such custom. At best mechanisms exist for resolving disputes over its interpretation and application.³⁹ Again, while some moral standards plausibly apply to state interactions, such as the setting of trade terms, and to the protection of global public goods such as the environment, the agents and types of powers in play call for different kinds of cooperative standards than those applicable to institutions that configure social cooperative arrangements between people. In the absence of a single universal right- and duty-imposing authority for all, fairness in trade must take a different form on this view.⁴⁰ Treating a political community fairly in international agreements, which must be sensitive to legitimate authority, does not translate into creating cooperative arrangements of equal concern for its members.

In sum, then, without an agent to treat people fairly or unfairly in how it arranges these special cooperative relationships there is no appropriate subject of which to predicate distributive justice *or injustice*, because there is no appropriate agent of equal concern.

Are the treatment-focused and outcomes-focused views truly distinct? After all, outcomes-focused views might simply define treatment in terms of producing the relevant outcomes for people. The key difference is that treatment views do not derive institutional agent responsibilities simply from the desirability of an outcome. They rather define justice and injustice itself in a way that is sensitive to the burdens that can fairly imposed to produce a distribution. Both those on the benefit and burden sides of cooperation must be treated fairly in relation to each other. Below I argue that individuals cannot be required to treat people with this kind of equal concern.

II – Justice and practical fairness

So far I have merely set out the non-teleological conception of distributive justice as a coherent account. I will now present an argument to lend it *prima facie* support. The argument speaks to the question of why attributions of justice and injustice should not simply extend to matters over which other agents, including individuals, have some effect. This is the argument from practical fairness.

Practical fairness limits the burdens people can be expected to shoulder for the sake of others to those that do not require them to abandon, deprioritise, or stop pursuing their own commitments. Whether the ends and priority orderings in question are essential for a person or not is not relevant here. Only that they are hers and matter to her. This constraint is important because it reflects the moral value of people living *distinct* lives which they define by exercising their faculty for developing attachments, adopting ends, prioritising some of these, and pursuing them. Respect for this personal distinctness means treating people as sovereigns over the exercise of that self-defining faculty. Failure to respect that distinctness can take the form of interfering with the exercise of this faculty but also of turning its exercise into a resource by requiring people deprioritise their own life ends in favour of ones that lead to greater social benefits. Accounts of distributive justice must respect this practical fairness constraint if they are to respect people as distinct ends rather than treat them purely as means to a social goal.⁴¹

Of course, not all personal priorities are compatible with the value behind practical fairness, which also grounds limits on what we must respect. So, consider religious aims requiring people to dismiss others' views and choices to the point of using credible threats to interfere with their adopting, prioritising, or pursuing them. Such commitments imply lack of respect for others' sovereignty over the exercise of their capacity to define their own priorities. The religious believer might be said to have a faith-based interest in doing this. However, that interest should not be given any weight in deciding people's rights. It is not simply "outweighed" by others' interests, but its inherent incorporation of disrespect discounts it altogether, making it irrelevant to moral deliberations about social arrangements. Even if refraining from interfering with people's faculty for self-definition is a cost to the believer's interest satisfaction, that must have no weight at all in deciding what is permitted. This kind of consideration discounting extends beyond basic freedoms to resource-affecting considerations. Consider an attempt to use religious commitments as grounds for refusing social health provision to members of a minority faith. The implication that one can be thus punished for one's commitments implies a lack of respect for our sovereignty in adopting, prioritising, and pursuing these commitments. Such considerations should also have no weight in deliberations, however important they are to those offering them. This form of consideration discounting constitutes simple *equal respect*. It does not mandate any particular resource distribution, but it does place limits on how resources can be distributed or withheld.

Consider now the distinct question of how to adjudicate between every person's access to resources to be used in pursuing their different (equal respect-compatible) aims. What burdens can people be expected to bear to allow or supply resources to others so they can pursue potentially competing but reasonable goals? This question is not in the same ballpark as asking whether we can dismiss certain considerations for action as invalid. It is about bearing costs, including opportunity costs, for the sake of facilitating others' pursuit of their ends.

If the only relevant criterion for shouldering burdens of this kind was that other people's interests reach a certain threshold of importance for them, and that the burdens are feasible, this has a problematic upshot. It generalises to the principle that whenever another person's end is of a certain degree of importance then we must relinquish our own ends in order to advance it. That principle effectively means giving up a life in which we can prioritise our own commitments, unless they reach the importance threshold or contribute towards satisfying the threshold interests of others. Which is to treat our capacity to adopt, develop, or prioritise ends as a social resource given over to serving other people's basic wellbeing. Whilst saintly, this does not so much adjudicate between other's interests and the distinct importance of our adopting, prioritising, and pursuing our own ends as quash the latter. As a principle, it violates practical fairness, not because it imposes *too many* costs but because it imposes costs of a categorically problematic kind.

The problem here lies in making equal concern a responsibility of individuals, which in turn imposes an obligation on each person to yoke her capacity to develop, prioritise, and pursue distinct ends to the cause of achieving a social outcome. Given such a responsibility is fundamentally incompatible with basic equal *respect*, individuals cannot be the agents of equal *concern*. How people fare in relation to each other is not a concern that can govern the adoption of every individual life priority and end, if we are to respect their lives as theirs. Of course, individuals have equal respect obligations, which means respecting the boundaries of other people's self-sovereignty, and sometimes remedying those whose boundaries they cross. But within the confines of people acting with equal respect, equal concern requires an agent capable of fair treatment in terms of how resources are distributed between people, regardless of whether they would otherwise be in a position to individually interact with each other.

Teleological accounts do not firmly distinguish equal respect and equal concern. They claim that interests sufficiently important to justify each of us owing people equal respect must be sufficient to also justify owing them equal concern. Buchanan even claims that accepting one responsibility without the other is "incoherent" or "laughably anaemic".⁴² So such accounts need to answer the problem that requiring individuals to be the agents of (to show) equal concern fails the practical fairness test.

An answer here might be that teleological views do not require 'first order impartiality' mandating us as persons to treat even our own commitments impartially in relation to others'. Institutions, rather than individuals, can be charged with treating us with equal concern.⁴³ Institutions can impartially assign benefits and burdens to us, avoiding the requirement on us to abandon personal life priorities to pursue first order impartiality. Unfortunately, this is either an *ad hoc* restriction on outcomes views, and fails for that reason, or it accepts the practical fairness constraint, and the restrictions of the non-teleological approach apply. The teleological approach makes the justice-relevant outcomes, whether secured interest thresholds or distributive patterns, everyone's responsibility. If equal concern means a distributive outcome, then we all owe each other equal concern.⁴⁴ Because of this responsibility we owe all other persons NDJs to create institutions capable of second order impartiality. Framing NDJs in this way (and there are other ways, see below) means we must adopt the personal project of creating these institutions as a life priority. Otherwise it is unclear in what sense these are genuine demands of justice as a practical notion. If our actions are to have the effect of actually creating institutions we must deprioritise all our non-basic ends in favour of adopting the personal goals and life priorities of working for global institutional transformation. Reasoning purely from outcomes and what we must do to deliver them, then, fails to shield individuals from practical fairness-threatening implications. On the other hand, the separation between requirements on institutions versus individuals might be safeguarded by accepting the practical fairness constraint and focussing distributive justice on second-order (institutional) impartiality alone. But that undermines the idea that the desirability of outcomes is by itself enough to generate practical reasons outside of an order where institutions can act

impartially. One also needs a certain kind of agent to be present for which these are appropriate reasons.

On the non-teleological conception, distributive justice is a special standard applying to agents with the power to decide how social cooperative relations are arranged, because they have that power. It is able to avoid conflict with practical fairness because social rights and duties can be fairly imposed by such an agent without requiring that people abandon personal life priorities and pursuits in favour of social goals. However, given these arrangements affect the resources and opportunities people have to pursue their personal ends, the institutions have a responsibility to choose between alternative arrangements in a way that shows equal concern for those pursuing their different personal ends. The only way to assign resources in a way that is compatible with practical fairness is with a *conditional* account of resource acquisition: cooperative arrangements permit, and facilitate, people seeking resources for their own ends, but only in ways that are socially beneficial. Thus, people more successful at acquiring resources towards their projects have opportunities to do so, but only in ways that also generate resources for those who are less successful.⁴⁵ Conditional accounts do not impose requirements on our personal priorities and ends, yet by imposing such cooperative conditions the political community shows equal concern to all those over whom it exercises its cooperation-arranging authority.⁴⁶ Teleological accounts, on the other hand, do not treat people as co-operators with their own ends entitled to a certain treatment in that capacity, but only as recipients according to the required distributive outcome or as instruments, unprotected by practical fairness, towards achieving that outcome.

This leaves teleological approaches with two options. They can bite the bullet and say no person has special rights to decide the personal commitments she adopts, prioritises, or pursues in her life, but all must adopt, prioritise, and pursue the relevant outcomes as a personal goal. Alternatively, they might adopt an account that is consistent, or partially consistent, with practical fairness. One way holders of these views attempt this, as I have pointed out, is by bracketing the issue. They borrow the vocabulary of rescue (to which I shall come below) with disclaimers that people's duties, including NDJs, should not impose costs that are "exorbitant" or "excessive" rather than "reasonable".⁴⁷ Yet what is reasonable is precisely the problem in these views. An account of distributive justice solely focused on the desirability of outcomes cannot explain why it unreasonable to require people, as a matter of moral obligation, to turn their adoption of personal commitments and prioritisation of life projects to pursue solely those that contribute to the desired global distributive outcome. On the other hand, admitting a practical fairness constraint on non-teleological grounds will undermine the claim that distributive justice standards apply regardless of the kind of agent present to respond for those standards.

The point here is not that there is a duty to contribute whatever we can towards global outcomes and we just have a minor problem in deciding how to mitigate the sacrifices this implies. That would be a teleological interpretation of the 'demandingness' problem.⁴⁸ The above argument challenges the very idea that we can justify a duty to adopt an outcome as a goal or priority for an agent based

solely on considerations of the general desirability of that outcome and that agent's abilities. Only duties consistent with practical fairness are morally warranted. Teleological views have a problem satisfying that test because practical fairness is not integral to any of the desirable outcomes they propose. The justice or injustice of outcomes is supposed to lie in their desirability for people, independently from evaluating what is necessary to implement them (or its clash with practical fairness) which is a feasibility, rather than conceptual, question on such views. But that, if anything, is an anaemic conception of justice, emptying it of practical content. I now show how theorists proposing a Natural Duties of Justice response to the problem of agency at the global level rely on a teleological conception.

III - Natural duties and justice

For teleological views there is no moral difference between individuals directly implementing a distributive outcome or contributing indirectly, say by creating the institutions that can directly implement a pattern of distribution.⁴⁹ Agents must simply do what they can, directly or indirectly, towards achieving the relevant outcome. NDJs to create institutions that can do the implementing make perfect sense on this view. If duties of justice derive from the value of the outcomes, then that value will ground duties to do whatever we can, within what is feasible and "non-excessive", to make sure everyone gets that outcome. This may include creating new institutions that secure it for all.

So it is not surprising that, in facing the question of what principles of practical reason such views imply, Ronzoni turns to imperfect duties analogous to Natural Duties of Justice.⁵⁰ Similarly, Cabrera links the goal of collective legal institutions to deliver peoples' rights across the globe to Rawls' NDJs. The rights justify the reforms as well as duties to engage in building institutions.⁵¹ Gilabert too, argues that even if people do not have institutions capable of extending justice to all, there might be "non-existing but accessible [institutional] structures" and "justice may be concerned with the latter as well." People "may have a reason to contribute to the generation of such a structure (if doing so does not impose unreasonable costs)" which "is an application of the Natural Duty of Justice..."⁵² These obligations are grounded in a general duty we have to bring about circumstances in which we can fulfil duties of justice that in current circumstances we are unable to fulfil.⁵³ Of course, this assumes that we have such prior duties of justice to fulfil, which is the crux of this debate, as we shall see. Buchanan's position is essentially the same, as outlined in the last section. These authors clearly assume a teleological account of distributive justice. If building certain shared institutions would increase the numbers enjoying the relevant outcome, that justifies a duty on each of us to do all we can towards building such institutions.⁵⁴ The only limits are "excessive" or "unreasonable" demands, that remain undefined, but certainly cannot consist in practical fairness.

This interpretation is of NDJs as deriving their normative force from a general duty to promote valuable outcomes.⁵⁵ It does not begin by asking what demands are consistent with practical fairness, making justice a function of that. Rather, it

begins from what treatment promotes or fails to promote the relevant outcomes, and then frames our duties, including duties to create institutions, in light of this with the sole constraint that the duties should not be excessively costly. Thus global NDJs get their force from a teleological view of distributive justice. One cannot make a case for global NDJs by pointing to distributive injustice if distributive justice and injustice characterise the behaviour of a mediating agent of social cooperation. Remove the agent, and one removes the kind of behaviour capable of showing or not showing equal concern. Yet, the agency objection with which I began this paper makes most sense as appealing to the non-teleological conception of justice, given its focus on institutional *agents* (subjects) of justice. To the extent that arguments for NDJs depend on the teleological approach, they beg the question as a response to a non-teleological restriction on the scope of distributive justice. In what follows I consider whether there are alternative, non-question-begging, arguments that might ground global NDJs relating to distributive justice, including appeals to imperfect duties of assistance, rescue duties, and human rights. I will argue that each of these either relies on a teleological reading of our moral demands or, if they do not, they cannot then ground an argument for global NDJs.

Rescue

It is relatively uncontroversial that we have duties to rescue people in dire straits under certain circumstances. These include that 1) a person faces serious threats to her basic wellbeing, 2) we are able to help her escape the predicament, 3) we can do so at 'not too great a cost' to ourselves, and perhaps some further condition or feature of the circumstances picks out this case as directly relevant to us as agents, for example 4) we are in 'proximity' to the person in need or are in 'confrontation' with her and her plight.⁵⁶ Some of the teleological theorists I have mentioned argue that because people in the world are in dire straits, say through poverty or lack of protection against abuse, we have a duty to rescue them.⁵⁷ Rescuing all people in that condition would be excessively costly to us as individuals, so our duty is mitigated, however we could contribute to rescuing more people by working towards shared institutions that can assist everyone. This justifies a global NDJ to work towards constructing such institutions.

Unfortunately, this argument assumes that the relevant and sufficient facts underpinning rescue duties are a person's dire need and our capacity to do something towards rescuing her.⁵⁸ This generates a duty owed to all those in need to overcome the limitations of our own mitigating conditions. Collective institutions will, apparently, do better and so we have a duty to bring them about. First of all, it is unclear how we can have a duty to help all those people (pre-mitigation). That would imply a general duty to assist everyone on the basis of their need and our ability, which clearly violates the practical fairness test: it implies our adopted ends, priorities, and their pursuit, must be dedicated to serve the global end. Furthermore, the 'not too costly' mitigation condition fails to specify how much is too costly in terms compatible with practical fairness. So this interpretation of the duty, conditions (1)-(3), fails the practical fairness test. "Can" does not imply "ought". That is why some authors include the additional condition (4) about proximity or confrontation. It prevents the duty being generalised in a way that violates practical fairness.⁵⁹ And that implies that we

do not have a *general* duty to personally rescue everyone we might, globally, were we to replace our life-guiding commitments with that end. If the value behind rescue is understood as general concern for the plight others, that value is consistent with rescue duties that are only triggered in special conditions such as confrontation with specific people's plight. These specific requirements do not conflict with practical fairness because they do not require us to adopt new priorities and ends to guide our lives. They simply require recognition of this value. A duty to adopt the setting up of institutions capable of rescuing every person in need globally as a life goal and priority is, however, inconsistent with practical fairness. So either rescue is limited in a way (4) that does not imply a duty of global distributive justice or it is unlimited, in line with the teleological account of distributive justice, but then fails the practical fairness test.

Imperfect duties of assistance

The NDJ argument for the applicability of distributive justice globally is often expressed in terms of imperfect duties, so as to avoid problems of demandingness faced by a robust personal duty of distributive justice.⁶⁰ This would seem to be a way to avoid the problem of practical fairness. However, there is a problem here in how we interpret imperfect duties.

One can take imperfect duties of assistance as a duties to adopt an end, in the sense of a value, or duties to adopt a goal. Adopting assistance as a value means adopting a general (rather than equal) concern for other people's safety in one's life commitments. It does not require us to adopt any one specific goal, and so does not require us to abandon or deprioritise any of our own ends. Various and varied actions can satisfy this value, such as helping an elderly person in trouble to cross a road, signing petitions for political prisoners, writing articles about the ethical treatment of refugees, volunteering with an organisation that runs a suicide helpline, campaigning against torture, donating money to disaster relief, supporting colleagues at work as a trade union volunteer, and so on. We might satisfy it it, given our other attachments, ends, and commitments, by doing a great deal or doing a modest amount or doing much more in one year than another. Actions directed against global poverty are just one of the myriad ways one can authentically express general concern for others and judgement is required to balance activities and personal resources dedicated to this commitment both against each other and against other commitments, projects, and relationships that matter in our lives.⁶¹ Adopting a value of this kind, then, does not correspond to a specific outcome and a quota we must fulfil towards it, but rather calls on us to exercise judgement in how we incorporate it among our own ends and priorities. It is not reducible to a general duty to show equal concern for every person's plight, which would both relinquish our judgement in how to assist others and crowd out our own ends and priorities, in conflict with practical fairness.

A duty to adopt a goal, however, means making tangible contributions to achieving a specific aim, where one can. The duty clearly implies helping to a specific degree but is non-specific as to which people we should personally help out of all those we could, given we cannot help everyone. This interpretation leads some authors to propose making imperfect duties more efficient by

adopting rules or institutions that end this lack of specificity by imposing clearer duties (“perfecting” our imperfect duties).⁶² This does not, however, explain what constitutes practical fairness in grounding duties to work towards the creation of institutions. Nor does it explain how we should reconcile the different and varied ways we can help others into one priority ordering that achieves specificity. We could stipulate a duty to prioritise among them all in a specific way, say by seriousness of need and numbers involved. But this would mean deprioritising our own judgements about who to assist and how, and our own personal commitments and pursuits too. To that extent it conflicts with practical fairness. Only imperfect duties interpreted as adopting a value such as a commitment to show general concern for others and using our judgement in making space for this among our aims and priorities, are consistent with practical fairness. But that interpretation is not consistent with NDJs to adopt the specific project of global institutional change.

Basic Human Rights

Another basis for NDJs might be a duty to establish institutional protection of human rights. Unlike rescue, this duty does not appeal to duties triggered by specific circumstances. It focuses on all people’s general entitlement to equal respect, which requires us to take measures to protect them from human rights violations.⁶³ The problem with this response is that it implies a general duty for people to supply others, globally, with protection. Yet shouldering costs for the social protection of others is a feature of equal concern rather than equal respect. For individual agents to adopt equal concern they would have to adopt the personal life-goal and priority of pursuing the advancement of another person’s basic interests wherever they are threatened by attack or neglect and we can do something about it. Which means deprioritising our own aims and priorities. The problem is that this ground for priority in our practical reason generalises to accepting it in all cases where people’s basic interests are threatened. But a *general* de-prioritisation of our commitments and pursuits fails the practical fairness test.

We could add restrictive conditions for when the duty applies, as where we are directly confronted with people in danger, and in that way avoid a general duty to deprioritise our own commitments. But then this is more like rescue. That seems right: under certain conditions we have duties to rescue others from abandonment and oppression. Which is different from a general personal duty to adopt and prioritise the personal goal of taking determinate steps against oppression everywhere it occurs and we might personally fight it.

Perhaps the rights-based duty can be interpreted as an imperfect duty to assist others. Indeed, our judgements of how to incorporate assistance to others in our lives may lead us to prioritise assistance to those facing tyranny and neglect, and to support campaigns to change institutions as a more effective way to incorporate that end. A combination of rescue and imperfect duties, both for individuals and states acting through their foreign policy can focus on improvements in international standards. Depending on how they balance their other legitimate commitments, these agents can work with others to establish cooperative mechanisms for global assistance, and rescue people where good

faith judgement ascertains this is not too costly to other legitimate commitments. But again that is different from an *obligation* to adopt and prioritise the personal end of achieving global protective institutions as a personal life goal. It is both conditional on the cooperation of others, and does not set out any specific amount of required contribution. How one incorporates such ends and the place they have in our priorities is sensitive to judgement and balancing with other legitimate personal or state priorities. Limiting one's contribution on this basis is not a failure in duty or justice. That contrasts with the NDJ interpretation of imperfect duties, which demands that we prioritise a specific international goal as our own and so fails the practical fairness test.

Where our own institutions adopt arbitrary and harmful forms of distribution, ones that clash with equal respect, as opposed to reasonable if misguided standards, we do have special obligations to contribute to institutional change within reason. We have duties to vote against unjust measures, for example.⁶⁴ But here, our special duties flow from the fact that we are part of making such measures possible by upholding and cooperating with the authority that configures this social arrangement of rights and duties. These are NDJs in Rawls' sense: duties within the context of institutional arrangements and authoritative institutions that "apply to us" (see section *I*). Respect for other societies' mistaken institutions flows from their legitimate authority. But where institutions violate equal respect and political community is untenable, we have no special obligations except resistance and rescue.

Arbitrariness of Membership

Another route to global NDJs might be to ask what non-arbitrary justification we have for the existing membership composition of any political community and the way its institutions include or exclude people from membership. Even if the appropriate object of descriptions of fairness and unfairness is how political institutions treat people, what right is there to limit the treatment that is relevant to justice to some people rather than others? Why restrict who can benefit from any instance of cooperation, for example?⁶⁵

The problem here is that claims to inclusion cannot be based in considerations of distributive justice on this view, unless we interpret distributive justice in a teleological way. Only then would there be a claim by all persons who might benefit from some pattern of outcomes by joining a political community. Assuming that view, of course, begs the question against plausible non-teleological accounts of distributive justice. That someone enjoys a better standard of living than another, because of the legitimate rule of states in which each lives, is not in itself unjust unless one has a teleological account of distributive justice. On the non-teleological account political communities satisfying the legitimacy test have authority to determine their membership and at least aim at equal concern for those over whom they exercise authority. There are of course rescue-based reasons to treat state boundaries as less restrictive than they currently are, and duties not to restrict them on grounds that violate equal respect. But again, these are different moral grounds for membership policy than NDJs relating to the desirability of a given global distribution.

Conclusion

Nothing I have said above negates the possibility of standards for better institutions, whether fairer domestic ones or fairer dealing in international cooperation. It does not rule out people having duties to uphold and work towards their authoritative institutions producing just configurations of rights and duties. Nor does it rule out changing membership compositions, say through incorporating a new population or amalgamating two, for a variety of moral aims, such as rescue or to prevent conflict. As I have argued, those only constitute duties of justice on a question-begging, outcomes-focused, interpretation. On the alternative view of distributive justice I have set out, the agency objection with which I began this paper is not vulnerable to the response that it merely raises a feasibility problem rather than a conceptual one. To avoid begging the question, those responding need to dig deeper and address the more fundamental assumptions about the nature of justice that are in dispute.

¹ I would like to thank Julio Monero, Chiara Cordelli, Eduardo Rivera Lopez, Ezequiel Spector, Pablo Gilabert, and other participants at the Buenos Aires Conference on Legal and Political Philosophy, the editors of this special issue and two anonymous referees for their useful suggestions on an earlier version of this paper.

² E.g., Meckled-Garcia, S., (2013), in Brock, G. ed., *COSMOPOLITANISM VERSUS NON-COSMOPOLITANISM*, Oxford: Oxford University Press, p. 111; Barry, C. & Valentini, L. (2009) 'Egalitarian challenges to global egalitarianism, a critique', *REVIEW OF INTERNATIONAL STUDIES*, 35:485-512, p. 496; Meckled-Garcia, S., (2008) 'On the very idea of cosmopolitan justice', *JOURNAL OF POLITICAL PHILOSOPHY*, 16(3), 245-271.

³ E.g., Abizadeh, A., (2007), 'Cooperation, pervasive impact, and coercion: on the scope (not site) of distributive justice', *PHILOSOPHY AND PUBLIC AFFAIRS*, 35(4): 318-358, pp. 333-34 & 339; Gilabert, P., (2012) *FROM GLOBAL POVERTY TO GLOBAL EQUALITY*, Oxford: Oxford University Press, pp. 165 ff. and Ronzoni, M. (2009) 'The global order: a case for background injustice? A practice-dependent account', *PHILOSOPHY AND PUBLIC AFFAIRS*, 37(3):229-256, pp. 236 & 238 ff.

⁴ Buchanan, A., *JUSTICE, LEGITIMACY, AND SELF-DETERMINATION*, Oxford: Oxford University Press, pp. 86 ff.; Gilabert, op cit., pp. 222.

⁵ Rawls, J. (1971/99), *A THEORY OF JUSTICE* (revised edition), pp. 96, 99, and 294. Buchanan is clear that Rawls' principle focuses on institutions that "(already) apply to one", Buchanan, A., *JUSTICE, LEGITIMACY, AND THE USE OF FORCE*, Oxford: Oxford University Press, 2004, p. 87.

⁶ Rawls, op cit., pp. 4-9 & 47-50.

⁷ They also rely on Rawls natural duty of justice "to further just arrangements not yet established", Rawls, op cit. pp. 99 and 294, but Rawls talks of furthering "arrangements" *never* of establishing institutions, so it is not at all clear he means establishing collective institutions for those that do not share them. Alternative interpretations of Rawls' NDJs see them as requirements to ensure institutions treat those in their dominion fairly, viz. James, A. (2005) 'Constructing justice for existing practice: Rawls and the status quo', *PHILOSOPHY AND PUBLIC AFFAIRS*, 33:281-316, pp. 92-3. Here I focus on substantive argument for NDJs to create collective global institutions.

⁸ “There are principles of justice that apply directly to individuals. Included among them are the Natural Duty of Justice which, though not a principle specifying how institutions are to be if they are to be just, directs individuals to contribute to the development of just institutions where this is needed to ensure that all persons have access to institutions that protect their basic human rights.” Buchanan, 2004 p. 86-7.

⁹ Buchanan 2004, p. 90.

¹⁰ Buchanan 2004, pp. 89, 134.

¹¹ Buchanan 2004, p. 89, 92, 94 n.8.

¹² Buchanan 2004, pp. 88 and 91.

¹³ Ibid.

¹⁴ “Would we not want first to determine who belongs to a scheme of distributive justice...and then...which political actors can implement this scheme?” Caney, S. (2008) ‘Distributive justice and the state’, *POLITICAL STUDIES*, 56: 487-518, p. 496.

¹⁵ Caney 2008, pp. 510 ff.

¹⁶ Caney 2008, p. 497.

¹⁷ “Consider a world with two separate systems of interaction that have no contact but are aware of each other and suppose that one of them is prosperous whereas the other extremely impoverished. Compare, now, two individuals [one from each system] who are identical in their abilities and needs. The member of the prosperous system receives more. But it is difficult to see why—concentrating on any possible and reasonable criteria for entitlement—this is fair.” Caney, S. (2005) *JUSTICE BEYOND BORDERS*, Oxford: Oxford University Press, p. 111.

¹⁸ Abizadeh, p. 339 n.42 and p. 339, respectively.

¹⁹ Ibid., pp. 333-34.

²⁰ Abizadeh 2007, p. 324.

²¹ Ronzoni, op cit., pp. 236 & 240; Abizadeh, op cit. pp. 324, 333, & 339.

²² Ronzoni 2009, p. 235 ff.

²³ Ronzoni 2009, p. 240.

²⁴ Ronzoni 2009, p. 236.

²⁵ Abizadeh, op cit., pp 237 ff.; viz. also Gilabert’s claim that social frameworks are “fundamentally instrumental”; op cit., p. 223.

²⁶ Gilabert 2012, pp. 165 ff. and Ronzoni 2009, p. 238 ff., respectively.

²⁷ Buchanan 2004, pp. 89 and 90.

²⁸ Buchanan 2004, p. 87.

²⁹ G. A. Cohen and Rawls share the same communal assumption, even if Rawls restricts the agency of justice proper to basic structural institutions whilst Cohen thinks it extends to individuals too. Cohen, G. A. (2008) *RESCUING JUSTICE AND EQUALITY*, Cambridge Mass.: Harvard University Press, pp. 27 ff.

³⁰ Dworkin, R., (2000) *SOVEREIGN VIRTUE*, Cambridge Mass.: Harvard University Press, pp. 235 and 280.

³¹ Temkin, L., (1986) ‘Inequality’, *PHILOSOPHY AND PUBLIC AFFAIRS*, 15:99-121, p. 101 n. 2; see also Nussbaum, M. (2006) *FRONTIERS OF JUSTICE*, Cambridge: Harvard University Press, p. 83.

³² Freeman, S. (1994) ‘Utilitarianism, deontology, and the priority of right’, *PHILOSOPHY AND PUBLIC AFFAIRS*, 23:313-349, pp. 335 ff. and 343 ff.; Dworkin, 2000, p. 278.

³³ Cf. Rawls J. (2001) *JUSTICE AS FAIRNESS, A RESTATEMENT*, Cambridge Mass.: Belknap Press, n. 14 p. 49 and pp. 54-55.

³⁴ See also Meckled-Garcia, S. (2016) ‘Two concepts of justice, and of its scope’, *CRITICAL REVIEW OF INTERNATIONAL SOCIAL AND POLITICAL PHILOSOPHY*, 19(5).

³⁵ Rawls refers to these as “allocative” views, Rawls 2001, p. 50.

³⁶ Gilabert 2012, p. 47.

³⁷ Rawls 1971/99, pp. 308 ff.; Dworkin, R. (2011) *JUSTICE FOR HEDGEHOGS*, Cambridge Mass.: Belknap Press, p. 335.

-
- ³⁸ Cf. Rawls, J. (1999) *THE LAW OF PEOPLES*, Cambridge Mass.: Harvard University Press, pp. 65-67, where Rawls allows for the reasonableness of well-ordered (but not liberal) societies for the purposes of international legitimacy. Cf. Cohen, Joshua, 2004 'Minimalism about human rights: the most we can hope for', *JOURNAL OF POLITICAL PHILOSOPHY*, 12, 190-213, p. 213. There is controversy as to whether legitimacy requires democracy or less stringent consultation mechanisms, Meckled-Garcia, S. (2014) 'What comes first, democracy or human rights?' *CRITICAL REVIEW OF INTERNATIONAL SOCIAL AND POLITICAL PHILOSOPHY*, 17(6):681-688.
- ³⁹ Meckled-Garcia, S. (2011) 'International law and the limits of global justice', *REVIEW OF INTERNATIONAL STUDIES*, 37(5):2073-2088.
- ⁴⁰ Cf. James, A. (2013) *FAIRNESS IN PRACTICE*, Oxford: Oxford University Press.
- ⁴¹ Cf. "separateness of persons" claim in Rawls, *op cit.* 1971, pp. 24 and 167.
- ⁴² Buchanan 2004, pp. 89, 248 n. 11; Cf. Gilibert *op cit.*, pp. 224-25.
- ⁴³ The first and second order impartiality distinction, and the idea that second order impartiality applies to institutional agents, is found in Barry, B. (1995) *JUSTICE AS IMPARTIALITY*, Oxford: Oxford University Press, e.g., pp. 194 and 214.
- ⁴⁴ Buchanan 2004, p. 87.
- ⁴⁵ I take both Rawls' requirement that social inequalities only be permitted if they benefit the least advantaged and Dworkin's equality of resources account, to have this non-teleological conditional structure. Whilst Rawls' theory has been interpreted as outcomes-focused, requiring a social outcome in which the least advantaged are made "better off", viz. Cohen, G. A., *op cit.*, p. 75, the non-teleological (conditional) better explains his focus on basic-structural agency.
- ⁴⁶ This conditional structure means there is no requirement that all beneficiaries should be net contributors on this approach. It is not a mutualist or reciprocity-based view. Institutions have obligations to treat members with equal concern (fairly) whilst membership is a function of the exercise of legitimate authority (see part *I* above).
- ⁴⁷ Buchanan 2004, pp. 92-93, and 94 n.8; Gilibert, *op cit.*, pp. 179 ff. and 224.
- ⁴⁸ Noggle, R. (2009) 'Give till it hurts: Beneficence, imperfect duties and a moderate response to the aid question', *JOURNAL OF SOCIAL PHILOSOPHY*, 40(1):1-16, p. 2.
- ⁴⁹ Gilibert, *op cit.*, p. 222.
- ⁵⁰ Ronzoni, *op cit.*, n. 31 pp. 241-2
- ⁵¹ Cabrera, L. (2010) *THE PRACTICE OF GLOBAL CITIZENSHIP*, Cambridge: Cambridge University Press, pp. 45 and 94.
- ⁵² Gilibert, *op cit.*, p. 222.
- ⁵³ *Ibid.* pp. 137 ff.
- ⁵⁴ *Ibid.* p. 41. Cf. also Shue, H. (1988) 'Mediating duties', *ETHICS*, 98(4):687-704, p. 703; Beitz, C. & Goodin, R. (2009) *GLOBAL BASIC RIGHTS*, Oxford: Oxford University Press, p.15; Tan, K. C., (2004) *JUSTICE WITHOUT BORDERS*, Cambridge: Cambridge University Press, 167 ff.; Stemplowska, Z., 'On the real world duties imposed on us by human rights', *Journal of Social Philosophy*, 40(4), 2009, 466-87, pp. 482 ff.
- ⁵⁵ Buchanan 2004, pp. 86 ff.
- ⁵⁶ On proximity, see Miller, R. (2010) *Globalizing justice*, Oxford: Oxford University Press, pp. 23 ff.; Kamm, F. (2007) *INTRICATE ETHICS*, Oxford University Press, e.g., p. 379; on 'confrontation', see Dworkin, *op cit.* 2011, pp. 277 ff.
- ⁵⁷ Buchanan 2004, n. 11 p. 248;
- ⁵⁸ Viz., Buchanan's claim that what matters in our duties to others is "how harm affects people" and that their rights and our duties follow from that, *ibid.*
- ⁵⁹ E.g., Miller, *supra*.
- ⁶⁰ Ronzoni 2009 n.31 pp. 204-41; Gilibert 2012, pp. 17 and 76.
- ⁶¹ Cf. Noggle, *supra* p. 7.
- ⁶² E.g., Stemplowska 2009, pp. 481 ff; Gilibert 2012, p. 76.
- ⁶³ Buchanan 2004, p. 87.

⁶⁴ Note, it is plausible that at least some of Rawls' NDJs to further just arrangements are perfect duties, given they have a similar structure to rescue duties.

⁶⁵ A similar objection is posed to views that seek scope restrictions on the basis of democracy; see A., Abizadeh, A., (2010), 'Democratic Legitimacy and State Coercion: A Reply to David Miller' *POLITICAL THEORY*, 38(1): 121–30, p. 121.