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GLOBAL EGALITARIANISM AND THE STATE: ON THE JUSTICE OF BORDERS AND JUSTICE BEYOND BORDERS

by

ADAM FOX

Under the Direction of Andrew Altman

ABSTRACT

One of the most active areas of debate in liberal theories of global justice regards the proper application of domestic egalitarian theories of distributive justice, such as that posed by John Rawls, at the scale of global considerations of need, remediation, and ultimately the development of a just order. This paper considers three popularly-referenced theories (that of Michael Blake, Andrea Sangiovanni, and Thomas Nagel) that each advance a variant of a more general thesis, sometimes referred to as ‘anti-cosmpolitan’ or ‘internationalist’ – that liberal egalitarian theories do not presently entail a uniform global principle of distribution that mandates material equality between all individuals, irrespective of their socio-political affiliations. Each theory is described in detail and representatives of major objections are evaluated along with potential responses, concluding with a finding that one interpretation of Blake’s theory appears to be the most promising avenue in developing the internationalist thesis.

INDEX WORDS: Global justice, Distributive justice, Egalitarianism

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ADAM FOX

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1. INTRODUCTION

In the world today, the scale of deprivation, the starkness of its effects, and the escalation of the sense that something can and must be done have rendered our bleak observations of this state of affairs into a platitude we hold in common – the world is unjust. However, as John Rawls exhorts at the closing of *Law of Peoples*, this is not an occasion for cynicism, and I think we have good reason to believe that we are not so lacking in our mutual concern that global justice is a chimera. Even if all agree that something must be done, it has proven exceptionally difficult to determine what ought to be done. Even some of the most modest of proposals involve substantial alterations to the cultural and governmental institutions within and outside of the world's extant states, not only due to the material cost, but also because of what a given solution is taken to signify of our values and commitments.

In light of the difficulties in determining where to start, many theories look to what seems basically human – that we are social, responsive to the environment, and act to change it – in essence, in view of how we are directly, indirectly, or prospectively connected to one another. What we generally find is the distinct impression that people matter, and from a certain standpoint many (if not most) agree that all people matter in a way they hold in common to themselves, to others, and to us. We also find that we matter in a distinct sense, that others we know matter distinctly and individually, and many people will also agree that so too each and every other matters, too. This is typically considered to be a more personal perspective; a more partial viewpoint, in some cases.

Yet, partiality and impartiality can be ambiguous in their significance. If all who are at issue, are also those who take a personal perspective, do we ask of them to repudiate it, or do we ask that each is given space to embrace that perspective? This is a question that appears as a common theme in a highly active and important subject of debate in contemporary approaches to global justice – whether liberal egalitarian theories ought to or must apply their respective domestic principles of distributive justice at a global scale; that is, without restriction to the confines of states. The debate itself occurs in substantial

part in the wake of John Rawls' highly influential domestic theory of liberal egalitarianism. Rawls himself refrained from a global application of the difference principle, including in his book *The Law of Peoples*, to the disappointment and criticism of many who took his theory to apply globally. 'Cosmopolitan,' or what I will often call 'globalist' critics (this term appears more helpful in its description), charge that Rawls's view unjustifiably permits greater inequality at the global scale than was permitted to occur in the domestic case of a liberal society.

The subsequent debate that has developed around this issue will be the primary subject of the discussion to come. I will examine three accounts, offered by Thomas Nagel, Andrea Sangiovanni, and Michael Blake, that are associated with defending a position in the vein of *Law of Peoples* and attempt to defend what is often termed a 'relational,' 'internationalist,' or 'anticosmopolitan' and, less commonly, 'statist' egalitarian theory (although it is unclear whether the latter two are genuinely apt descriptions). These theories divide the population of the world into groups of individuals who share a certain relation to one another, or to a particular institution such as a state (or both), that is normatively important for distributive justice and is not shared with others outside of that network of relations. On the basis of the relation identified, relational or internationalist theorists argue that globally applying a uniform measure of distributive equality appears inconsistent with the presumption of the moral equality of the parties in question. This perspective is sometimes also characterized as seeking out the relation that excludes or prevents distributive equality being extended outside of states. However, the prior formulation seems less presumptuous and, in any case, appears to better reflect the idea that a robust internationalist account will offer a positive account that weighs in favor of its perspective.

Nagel (2005) argues that the rules of a society that regulate the behavior and relations of citizens, are coercively imposed "in their name", and citizens are expected to accept and uphold such laws, so that these two conditions together create "the special presumption against arbitrary inequalities in our treatment by the system" (129). Sangiovanni (2007) faults Nagel for focusing on "how state and

nonstate norms and regulations interact with the will” as a ground for distributive justice (19). He argues, instead, for understanding distributive justice as a matter of “egalitarian reciprocity,” which fellow citizens and residents in a state owe to one another because each provides “the basic conditions and guarantees necessary to develop and act on a plan of life;” provisions that are not made to noncitizens outside the state (20). Blake (2001) appeals to the unique impact of state coercion on individual autonomy. He argues that (1) autonomy is valuable, (2) coercive political systems need to be justified to those coerced, (3) justification entails commitment to principles of distributive justice on the basis of relative shares, therefore (4) states must adopt these principles, while (5) global institutions are not coercive in the manner of states therefore, (6) principles of domestic egalitarian justice are not properly generalized to the global scale (though others may apply in certain cases).

My discussion will focus on a thorough and reflective evaluation of the arguments offered from the perspective of the common enterprise of a concern for global justice. This means that I will consider objections that I find are fair representations of major points of dispute, as well as offer my own criticisms that I find go unaddressed in each theory, but in doing so I will also offer possible defenses or solutions as part of a holistic review of each account. Of these theories, Blake’s appears to be the most successful in the defense of its thesis; at least depending on certain interpretational matters. This success is in part due to a more pluralistic account of distributive principles than Nagel and Sangiovanni, but likely also because he offers a more extensive defense of key points of his perspective, and incorporates a relational form of egalitarianism. I am also hoping that the discussion ahead may be helpful in evaluating Arash Abizadeh’s (2007) claim that “Rawlsians who choose [Rawls’s] Law of Peoples as the appropriate model for thinking about global justice must...abandon his theory of justice altogether” (358). Although I cannot definitively settle this issue, I find that a number of considerations that are raised in the course of discussion that may challenge Abizadeh’s contention.

2. THOMAS NAGEL: JOINT AUTHORIZATION AND SHARED LIABILITY

According to Thomas Nagel (2005), “the nation-state is the primary locus of political legitimacy and the pursuit of justice” and, absent the emergence of a global sovereign state, socioeconomic (otherwise referred to as *distributive*) justice remains a criterion of the internal political legitimacy of states, rather than an applicable norm of geopolitical politics. He argues that, under a “political” conception of justice, the demands that a state makes on its citizens, and that citizens make on one another, create duties of distributive justice that each has “toward one another through the legal, social, and economic institutions that sovereign power makes possible” (121). Without a centralized (and collectively authorized) global sovereign, he says, “the full standards of justice” do not apply to global affairs (122).

Nagel’s account is among the most commonly-referenced in contemporary literature on global justice, typically as a representative of “coercion” theories of distributive justice and an opponent of ‘cosmopolitan’ or ‘globalist’ theories. This chapter will cover an introduction to Nagel’s theory, an overview and analysis of critical responses to his theory in subsequent articles, followed by my own critique. I conclude that Nagel’s normative basis for distributive justice appears to cut against a discontinuity thesis, and that his account appears to unduly emphasize an absence of shared norms or willingness to cooperate on the part of state or institutional agents in global politics.

2.1 Nagel’s Political Conception of Justice

According to Nagel, all individual persons have duties to other individuals governed by a “minimal humanitarian morality” that concerns “the most basic human rights against violence, enslavement, and coercion, and of the most basic humanitarian duties of rescue from immediate danger” (131). On the “political” conception of justice that Nagel endorses, there are also “associative obligations” that prescribe duties one owes only to those with whom one stands “in a strong political relation” through “shared institutions” (121). In particular, socioeconomic distributive justice is “fully associative” on his

account, and “depends on positive rights that we do not have against all other persons or groups” (127). Only shared membership with others “in a political society under strong centralized control” is sufficient to trigger the requirements of distributive justice (127).

On Nagel’s political conception, a just order requires “consistent patterns of conduct and persisting institutions that have a pervasive effect on the shape of people’s lives” (116). The sovereign state satisfies this requirement by providing a “centralized authority to determine the rules and a centralized monopoly of the power of enforcement,” effectively granting the system the ability to adequately coordinate individual activities to serve a collective purpose (116). As fellow citizens of a state, “without being given a choice, we are assigned a role in the collective life of a particular society...[that] holds us responsible for obeying its laws and conforming to its norms” (129). In meeting this responsibility, we ultimately support “the institutions through which advantages and disadvantages are created and distributed” and, through our compliance and authorization, the state “exercises sovereign power over its citizens and in their name” (121, 129). Such institutions “claim our active cooperation,” that amounts to “pure coercion” if such claims are made without appropriate justification (129). Nagel argues that the “broader legal framework” that makes the actions of citizens possible, such as private economic transactions, and “legally sustains their results,” such as laws enforcing management of resources in the form of private property, “is subject to collective authority and justification and therefore to principles of social justice” (130). For Nagel, duties that impose “heightened requirements of equal treatment,” are required in order to justify the unique demands that the state makes “on the will of its members,” and the concomitant demands that members make “on one another through the institutions of the state” (130). It is the “dual role each member plays both as one of society’s subjects and as one of those in whose name its authority is exercised” that creates a “special presumption against arbitrary inequalities in our treatment by the system” (128-129).

On Nagel's view, egalitarian norms of distributive justice are inapplicable "unless and until, as a result of historical developments not required by justice, the world comes to be governed by a unified sovereign power" (121). He argues that, on the political conception, justice only applies "to a form of organization that claims political legitimacy and the right to impose decisions by force," and the case of international governance only involves "a voluntary association or contract among independent parties concerned to advance their common interests" (140). According to Nagel, the networks of relations that make up these newer forms of governance bring together representatives "of state functions and institutions," rather than individuals, act "in the name of states or state instruments and agencies that have created them," and individuals are not expected to authorize these actions, nor are individuals taken to be constituents who may demand justification (138-140). Therefore, he argues, although the "traditional model of international organizations based on treaties between sovereign states has been transcended," these "newer forms of international governance" do not give rise to a "form of organization" to which justice applies (139-140). Even if more powerful states advocate for rules that are shaped in part by humanitarian considerations, or other concerns for weaker states, these developments do not "change the situation fundamentally" on his account (140).

In addition, global organizations "rely for enforcement on the power of the separate sovereign states," rather than acting through a "supranational force responsible to all" (139). As a result, Nagel argues that although these state institutions, that are party to international governance, are "responsible to their own citizens and may have a significant role to play in the support of social justice for those citizens," the aforementioned international network as a whole lacks any "similar responsibility of social justice of the combined citizenry of all the state involved" (139). Citizens have a claim of justice against their *own* state governments for actions taken in global affairs that violate the duties owed to its citizens. Even if a state's circumstances appear particularly dire, or it simply lacks adequate bargaining

power to obtain a favorable result in negotiation, citizens have no claims of justice against international and extranational institutions, other states, or a putative system as a whole (140).

Nagel terms this view a “discontinuous” political conception, which excludes the possibility of a “sliding scale of requirements of justice” that tracks the degree to which a particular system is comparable with that of a sovereign state; that is, a “continuous” theory of justice (142). He acknowledges that *eventually* the global and international system of rules and institutions may “expand to seriously dislodge the dominant sovereignty of separate nation-states, both politically and morally” (138-139). However, he argues that the existing system “falls far short of global sovereignty” (138). On Nagel’s view, justice is the “first virtue...of social institutions,” and so the existence of a sovereign state is “precisely what gives the value of justice its application” (120). He contrasts the political conception with what he describes as the *cosmopolitan* (or what I will also refer to as the *globalist*, as opposed to *internationalist*¹) conception, in which justice is “universal in scope” based on an “equal concern or a duty of fairness that we owe in principle to all our fellow human beings” (119). Therefore, “the obstacles to global sovereignty pose a serious moral problem” because the moral basis for duties of justice is pre-institutional and is not contingent upon the existence of or one’s membership in a shared coercive system (119). Nagel does not provide a refutation of the cosmopolitan position, opting to focus on providing an account of the political conception. He takes the political conception of justice to be correct, but he also believes that it “is accepted by most people in the privileged nations of the world so that, true or false, it will have a significant role in determining what happens” (126).

Under the political conception Nagel endorses, heightened obligations of justice apply to “anyone who happens to be or to become a member of our society: no one is excluded in advance” (133).

¹ I take these terms from Andrea Sangiovanni (2007), in place of *cosmopolitan* and *anticosmopolitan*, as the debate in question appears to regard *what kind of global (cosmopolitan) community could or should exist rather than denying one ought to exist in the first place, thereby making it unclear whether any of the theories being discussed is best classified as anticosmopolitan, so much as opposed to certain features of a number of theories that are self-identified as ‘cosmopolitan.’*

Individuals have no duty to enter into new relations with those to whom one previously lacks a strong political relation (121). Any claims that justice “creates against other societies and their members are distinctly secondary to those it creates against one’s fellow citizens” (132). Nagel’s account has been criticized for its pessimism about global justice, which is argued to exceed even that of the entities that he alleges to have stoked his pessimism. In addition, Nagel’s specified conditions have been charged with failing to establish states as a *necessary* condition for obligations of distributive justice to emerge.

2.2 Challenges to Discontinuity

Nagel’s account appears to reflect his initial observation that domestic political philosophy as a field that is “very well understood, with multiple highly developed theories offering alternative solutions to well-defined problems,” while he finds that global political theory exists in a “perplexing and undeveloped state” (113). Nagel says that “it is very unclear what, if anything could play a comparable role” to the sovereign state, in developing a theory of global justice, and so in his view we should not presume domestic theory applies at the global scale (114). So, he develops a positive account of domestic justice, and then evaluates its applicability at the global scale. Nagel observes a sharp relational discontinuity between individuals in the global and domestic domains, and so concludes that a similarly sharp normative discontinuity justifies a strict division in the applicability of justice norms

Cohen and Sabel (2006) argue that it “is not obviously true” that “the relationship of individuals to the supranational bodies is completely mediated by [state] governments,” such that norms of justice ought to be confined to the internal politics of those respective states on Nagel’s account (162). They argue that “the requisite involvement of will,” that Nagel cites as a necessary condition for the application of justice, “does not require a state” (164). Sangiovanni (2007) likewise suggests that Nagel’s theory “at most...establishes a continuum positively related to the stringency of the norms which apply to it” (19). In this section, I will discuss (1) background to this objection, (2) criticisms by Cohen and Sabel, and

Sangiovanni, (3) possible responses on Nagel's behalf, in which I find that these objections as-posed are not fully successful, and (4) a further refinement of the continuity objection.

2.2.1 *Strong Statism and the Global Order*

Cohen and Sabel (2006) describe Nagel's theory as "Strong Statist," in which the state is a "unique normative trigger...in establishing the conditions not only for egalitarianism, but also for the validity of any norms of justice more demanding than humanitarianism" (155). A "Weak Statist" theory would treat Nagel's conditions as necessary and sufficient to trigger the sort of 'equal concern' that Nagel associates with egalitarian justice, but would permit other norms of justice to apply to other contexts (153, 163). However, Nagel explicitly claims to advance a "discontinuous political conception" of justice, in which he argues that "the creation of collectively authorized sovereign authority" is a prerequisite to triggering any "demands for justice, even in diluted form" (Nagel 2005, 141). Cohen and Sabel characterize several relational features of international and transnational affairs, in response to Nagel's relatively austere depiction of the global order: (1) economic integration (e.g. capital flow between states, dependence on trade) "has made the global economy a substantial presence in the economic lives of virtually all states," (2) although "states remain essential players," the process of legislating the content and regulating the application of rules is increasingly residing in "global settings...with some de facto decision making independence" from the states that establish these regulatory bodies, (3) these rules "are consequential for the conduct and welfare of individuals, firms, and states" because "they provide standards for coordinated action" and because the state legislative process "proceeds subject to rules, standards and principles established beyond the national level," and (4) even when lacking an independent capacity to coercively impose sanctions on a particular entity, supranational bodies have the capacity to ensure compliance through conferral of needed benefits and imposition of burdensome sanctions (2006, 165). Cohen and Sabel argue that global politics "is thus not an occasional matter of

sparse agreements,” and appears to be “enduring and institutionally dense” through a complex network of support and compliance from member states and other institutions (167).

This characterization seems reasonable. While the global order does not replicate the structure of states precisely or necessarily covers the extent to which states regulate individual affairs, inter- and transnational relations and institutions appear to play an important role in determining the life prospects of many individuals. As one might expect, given the impact of these organizations on individuals’ lives, and on the internal operations of many state governments, Cohen and Sabel also note that (5) inter-and transnational relations, and global institutions, are “the focus of a transnational politics of movements and organizations...that contest and aim to reshape the activities of supranational rule-making bodies, in part through protest, in part by representing interests to those bodies,” and (6) the rule-making bodies of the global order are expected “to continue to exist and to make consequential decisions” so that various agents (individuals, states, organizations) “need to take them into account in making decisions and pursuing goals” (167). In other words, the operation of agents and institutions that make up the global order are consequential to the lives of individuals in ways that resemble elements of the domestic order of many states. In addition, individuals and organizations are becoming actively involved in the maintenance and influence of the global order in a manner that also bears similarity to domestic affairs. Based on considerations such as these, critics have charged that Nagel’s theory cannot plausibly evade an extension into the global context, with *some* type of norms of justice applicable in the regulation of interstate relations and global institutions.

2.2.2 *The Political Conception and [In]justice Abroad*

Nagel argues that on a political conception, given the present state of global politics, only a “*minimal* humanitarian morality governs our relation to all other persons,” because the fact that “intrasocietal inequalities have a profound effect on people’s lives” is insufficient to give rise to *any* extranational demands of justice; there is no jointly-authorized coercive system to which individuals

across states are subject (2005, 131). However, Nagel's underlying justification for suprahumanitarian obligations within states may not call out for such exclusionary application. Cohen and Sabel refer to Nagel's discussion of justice in the case of duties owed to subjects of extra-national regimes, such as occupying or colonial powers. They argue the fact that citizens of the debtor or signatory state were not consulted about a particular agreement, and its regulatory effects on their state government, bears normatively relevant similarities to Nagel's treatment of occupied territories (168).

According to Nagel, in these cases, a "broad interpretation of what it is for a society to be governed in the name of its members" is needed, and that "if a colonial or occupying power claims political authority over a population, it purports not to rule by force alone" (Nagel 2005, 129 n.14). He argues that the occupying or colonial power provides and enforces "a system of law that those subject to it are expected to uphold as participants, and which is intended to service their interests even if they are not its legislators" (129 n.14). As a result, Nagel says, "there is a sense in which [the system] is being imposed in [the subjects'] name" (129 n. 14). Cohen and Sabel find that this same line of argument appears to be applicable to the case of the current order of intergovernmental agreements and regulatory institutions (2006, 167). They note that WTO membership, although formally voluntary, is "a 'take it or leave it' arrangement without even the formal option of picking and choosing parts to comply with" (168). For some states, opting out of an agreement with an organization like the WTO is "not a real option...and everyone knows it is not" (168). They argue that it "seems almost facetious" to describe the relation between global or transnational political entities, and individual citizens of states, as "entirely mediated by the state's decisions and thus insufficiently direct to trigger new norms" (168). The global order thus is argued to contain (borrowing Nagel's description of states) "persisting institutions that have a pervasive effect on the shape of people's lives," in the form of extranational bodies that can institute "terms of coordination" between agents (Nagel 2005, 116).

In addition, global institutions ordinarily act under the auspices of political legitimacy based on support from other entities (such as states, other state and global institutions, and political movements) operating within the global order, and on purporting to serve particular interests that are of concern to the agents regulated (often through internally-developed procedures and initiatives). According to Cohen and Sabel, Nagel's account treats organizations such as the WTO as "morally unencumbered," such that, in effect, no complaints can legitimately be raised in response to actions taken by the organization that harm particular members (171). In response, they cite that the WTO "anticipates that trade rules will frequently conflict with, and need to be modified to accommodate, a wide range of normative concerns embodied in the domestic laws and regulations of those trading in world markets," suggesting that the WTO does not operate in such a vacuum (171).² Cohen and Sabel further argue that a "direct rule-making relationship" exists between the rule-making and regulatory bodies of the global order, and the citizens of different states (168). For example, a state alters its domestic laws in order to comply with WTO agreements (which are binding on all members), perhaps under threat of demands for compensation or for approval of trade sanctions by the WTO (167). Cohen and Sabel argue that, although "citizens of the affected states are not consulted" in these cases, "the same is true with the occupying power" (168). In addition, they say that there "appears to be sufficient involvement of will for people to also

² Notably, the WTO claims to be "not just about liberalizing trade," but also concerned with issues such as how to "protect consumers, prevent the spread of disease or protect the environment" (2011, 8). In addition, the organization does appear to represent itself as being tasked with responding to the deleterious circumstances of certain member states. According to the WTO, following the Uruguay Round of negotiation, developing countries "were prepared to take on most of the obligations that are required of developed countries" (13). The agreements included binding dispute resolution procedures that may determine obligatory compensation to the claimant state, or approval of trade sanctions, and Trade-Related Aspects of Intellectual Property Rights (TRIPS) that "establishes minimum levels of protection that each government has to give to the intellectual property of fellow WTO members" and requires compliance with "common international rules" in establishing domestic laws (39). However, the WTO acknowledges that developing countries face difficulties "in implementing the Uruguay Round agreements" (13). In response to appeals from several members, the WTO has developed the Technical Barriers to Trade and Sanitary and Phytosanitary Measures. These agreements allow member states to enact domestic rules that regulate trade and production on the basis of concerns such as public health and safety, so long as those rules conform with WTO agreements. However, by recommending the use of "international standards" that ordinarily require states to relinquish efforts to favor domestic parties, the TBT is likely to still be disproportionately demanding on economically and politically weaker members (31).

think that the plan, and its institutional background, is unjust” and to accept that their state government had simply tried to “[make] the best of a bad thing” (167). This line of argument appears persuasive on the matter of whether some states face exceedingly adverse circumstances, such that Nagel’s claim that their actions are “fully voluntary” lacks credibility. However, their argument appears incomplete, at least in demonstrating an internal source of instability in Nagel theory.

2.2.3 Nagel on Occupation

For Nagel, the sovereign state’s centralized authority, and monopoly of force, serve to provide stability to the “kind of all-encompassing collective practice or institution that is capable of being just in the primary sense” by (1) instituting and enforcing the requisite “terms of coordination,” thereby providing assurance to individuals that their actions will occur within the confines of a “reliable and effective system” of common regulation, and (2) penalizing non-compliance and forcing compliance, where necessary (2005, 116). A just order also requires that (3) in addition to their compliance, individuals are expected to accept the authority of this system, even when one disagrees with a particular rule or norm, or with the actions undertaken by the system to enforce compliance, so that (4) there is an “active engagement of the will” of each individual “as one of the society’s subjects and as one of those in whose name its authority is exercised” (128). Therefore, for Nagel, members are vulnerable to any morally arbitrary factors that the state allows to define their treatment by other agents. Nagel may argue, however, that distributive justice is not a catch-all solution to imbalances in power or inequities in the transactions between individuals. His proviso concerns a scenario in which a society (and their local institutions of governance) becomes a political subdivision (such as a colony) of the occupying state. In order for a state to be subsumed in like manner by the global order, it would have to at least abrogate its sovereign authority as a subsidiary state would within a federation. In that case, the global order’s dictates would reach directly to individuals in a manner that is very similar to when a state reaches individuals directly through its internal political divisions and their respective agencies. The cases raised by

Nagel's critics, however, do not involve states becoming a ward of the global order. Therefore, Nagel takes the special considerations that underlie egalitarian justice to be inapplicable outside of this unusual circumstance.

Sangiovanni argues, however, that the notions of authorship and 'general will' "contribute surprisingly little to the overall success" of Nagel's account, because Nagel ultimately secures principles of distributive justice on the basis of *involuntary* subjection to a system. Although global institutions are not identical to state systems, Sangiovanni notes that "the only reason secondary associations within states are considered voluntary is precisely the existence of the background system of entitlements and protections provided by the state" (2007, 12). If membership in a particular organization became a prerequisite for access to the "basic goods and services necessary for developing and acting on a plan of life" then, according to Sangiovanni, it "stretches credibility" to argue that membership is "voluntary in the relevant sense," or that one voluntarily accepts that organization's (or system's) rules (12, 18). More generally, he argues that if one has no viable alternative to membership in an organization and compliance with its dictates, then any disadvantages that organization imposes upon you "must receive a special and more stringent justification" (17-18). Nagel, however, may respond that particularly dire cases of coercion or imposed disadvantage represent violations of humanitarian duties, and remediating these violations does not depend on our having "any institutional connection between ourselves and other persons" (2005, 131). In addition, he says that bargaining between states, a process he previously described as voluntary and self-interested on the part of each state, should be "tempered by considerations of humanity" and it is "indecent" for WTO agreements to let "subsidies by wealthy nations to their own farmers cripple the market for agricultural products from developing countries" (143). Thus, Nagel would argue that it is unnecessary to cite distributive justice as a ground for objecting to exploitation of the exigent circumstances of particular states. This response, however, still appears incongruous with the moral basis Nagel cites for the origin of associative duties of justice.

2.3 Universality and Associative Justice

Nagel describes his conception of justice as “shaped by the Kantian ideal of a kingdom of ends whose members do not share a common set of ends” (133). Nagel holds that both minimal humanitarian duties *and* egalitarian duties of socioeconomic justice are based on a “standard of universalizability” (133). Humanitarian duties are based in “the kind of inviolability conferred by rights” that are “so fundamental,” and the burdens imposed by humanitarian duties are “so much slighter, that a criterion of universalizability” applies as a justification for these duties (131). In addition, however, “special obligations [may] arise from contingent personal relations and voluntary associations or undertakings by individuals” (132). We can be “joined together with certain others in a political society under strong centralized control” that serves to comprehensively regulate our conduct and has a “pervasive effect on the shape of [each of our] lives” (116, 127). If these relations are beyond our control and effectively involuntary, then it is “objectionable” on Nagel’s view that “we should be fellow participants” in a system that “generates arbitrary inequalities” (128). Otherwise, the system’s treatment of individuals amounts to pure coercion and fails the “standard of universalizability,” which requires that “all persons are regarded as morally equal” (133).

One can accept Nagel’s joint-authorization requirement, and remain perplexed as to how he reaches the conclusion that *only* co-membership in a state can generate *any* duties of justice. Nagel initially argues that other-regarding motives, from which one may derive principles of justice, require the “enabling conditions” of a sovereign state in order to move beyond a “pure aspiration that has no practical expression” (116). He insists that only an “all-encompassing collective practice or institution,” which he believes “can exist only under sovereign government,” can provide the context in which “one can judge [a system] to be just or unjust” (116). However, most of his discussion of the moral basis of justice appears to cast doubt on this claim. Nagel endorses the view, which he attributes to Hobbes, that “we can discover true principles of justice *by moral reasoning alone*,” which appears to suggest that justice

norms can be known prior to the existence of a system capable of instituting those norms (114).³ For example, Nagel's domestic theory of justice appears to be a specific application of a more general notion that involuntary association can give rise to obligations "with a broader associative range and from a lower moral baseline than the personal obligations" to which Nagel refers when introducing the notion of special obligations (132). Even if one accepts that comprehensive egalitarian principles of justice require a state for their application, however, it does not appear to follow that *other* principles cannot be derived for other circumstances. So long as a shared relation is defined well enough that parties can appeal to 'some standard of universalizability' when objecting to treatment by other parties, it is not obvious why these cases fail to create some form of special obligation on Nagel's account.⁴

Second, the concerns Nagel raises, regarding stability, trust, and efficacy may be important practical considerations. However, these concerns appear even in the case of humanitarian duties. In that case, Nagel says that "it seems clear that human rights generate a secondary obligation to do something, if we can, to protect people outside of our society against their most egregious violation" (132). On this basis, he anticipates that it will be "practically impossible, on a world scale, without some institutionalized methods of verification and enforcement" (132). Yet, in the case of humanitarian duties, Nagel does not suggest a similar pre-institutional restraint to the one he poses in the case of distributive justice – "[w]e do not need institutions to enable us to refrain from violating other people's rights, but institutions are indispensable to enable us to fulfill the duty of rescue toward people in dire straits all over the world" (131-132). In the case of the global order some of the relevant institutions, that mediate the relations between the parties in question, *already exist*. Likewise, their operations are defined by internal legislation and external norms⁵, and the effects on some parties are publicly understood to be dele-

³ Nagel elsewhere claims that the "full standards of justice...can be known by moral reasoning" (2005, 121).

⁴ Nagel explicitly appeals to a "contractualist standard...developed in one version by Scanlon" (2005, 131). However Michael Blake, whom I will discuss in the third chapter, refers to Scanlon's contractualism in a similar context to Nagel, yet finds *support* in this line of reasoning for some form of international and global justice.

⁵ For example, what is typically referred to as 'customary international law'

terious. In addition, their membership in some case, or putative agreements with other states or global institutions, may be effectively involuntary. Given Nagel's suggestion that (1) the "whole point of the political conception is that social justice itself is a rise in exclusive obligation...[that] depends on the contingency of involuntary rather than voluntary association," and (2) that "there is no single level of full moral concern, because morality is essentially multilayered," it seems reasonable to conclude that (3) we can devise *some* intelligible and appropriate principles and either apply them to existing institutions, or to create new institutions to facilitate reforms.

The fact that states have historically been associated with principles of justice does not provide strong, independent evidence that *no* norms of justice conceivably apply at the global scale; particularly, on the reputedly pluralistic outlook of the political conception to which Nagel appeals. Julius (2006) makes another compelling point that Nagel's view "cannot account for the appearance that global justice has become more important as the world has become more connected" (187). Similarly, Cohen and Sabel suggest that, although the process for amending multilateral agreements is "indeterminate [and] in flux," what matters is that "these controversies are occurring at all" (2006, 172). They argue that the "combination of obligation and entitlement in the formulation of global trade rules" indicates that global institutions, and their participatory or member states, "do not take themselves to be operating in a normative vacuum" even if these organizations and their rules are not presently "normatively authoritative" in parity with domestic law (173). In sum, the moral account Nagel provides in his article invites contemplation of principles at the global scale that conflict with his thesis, while developments in global politics appear to weaken the force of his practical skepticism, and suggest at least *some* plausible venues for applicability. In the next chapter, I will consider Andrea Sangiovanni's "Reciprocity-Based Internationalist" theory, which takes inspiration from Nagel's account but attempts to avoid pitfalls that Sangiovanni takes to be unavoidable in theories that focus on voluntariness or coercion as a pivotal in generating obligations on account of distributive justice.

3. ANDREA SANGIOVANNI: JUSTICE AS RECIPROCITY

Andrea Sangiovanni (2007) argues that reciprocal duties of fair compensation, rather than involuntary subjection to a coercive system, determine principles of distributive justice. Under his Reciprocity-Based Internationalism (RBI) account of egalitarianism, the mutual contributions of state citizens and residents, to a system that provides the common requirements for an individual's capacity to live in accordance with a "plan of life," give rise to reciprocal obligations that constitute egalitarian distributive justice (22). He argues that, presently, only states possess the capacity to autonomously provide these requirements, and to maintain a distinct society to which egalitarian distributive principles would apply on the basis of reciprocity (21). However, he anticipates that his theory can accommodate other duties of justice at the global or international scale, while accounting for the distinctiveness of states as the exclusive case in which egalitarian principles apply. In this section, I will (A) discuss Sangiovanni's domestic theory of justice, (B) how he accounts for global demands of justice, and (C) consider the objection that reciprocity theories unfairly exclude foreign contributors from inclusion in an egalitarian distribution. I conclude that RBI appears to face an internal theoretical conflict that is similar to that which is found in Nagel's theory, and as a result may prove unsuccessful in defending a non-global application of its respective distributive principle.

3.1 Reciprocity and Domestic Justice

According to Sangiovanni, states have "basic extractive, regulative, and distributive capacities" that, when well-functioning, "free us from the need to protect ourselves continuously from physical attack, guarantee access to a legally regulated market, and establish and stabilize a system of property rights and entitlements" (20). Ordinarily, he says, the state is constituted and maintained by "citizens and residents [of the state]...through taxation, through participation in various forms of political activity, and through simple compliance, which includes the full range of our everyday, legally regulated activity"

(20). RBI holds that “mutual provision of the basic collective goods necessary for acting on a plan of life conditions the content, scope, and justification of distributive equality” (22). As mutual contributors to a system which provides “the basic collective goods necessary for acting on a plan of life,” fellow citizens and residents of the state are “owed a fair return” in the form of a “special presumption against arbitrary inequalities” as a matter of reciprocity (21, 26-27).

Sangiovanni acknowledges that his use of 'reciprocity' in this case may be relatively broad, noting that “reciprocity-based conceptions of distributive justice usually underscore contribution to...social product” (28). He argues that, although an individual’s contribution to the “social product” depends in part on one’s particular talents and abilities, one’s opportunities to develop and make beneficial use of those talents and abilities depends upon the mutual support and contributions of fellow citizens in the maintenance of the state system (25, 28). As fellow citizens and residents of a state, he says, each of us submits ourselves “to a system of laws and social rules in ways necessary...[for] successful economic production and exchange on a societal scale” to occur (29). Therefore, Sangiovanni premises ‘fair return’ on a broader standard than “marginal product of [one’s] labor,” arguing that, absent the contributions of citizens and residents of the state, “paid in the coin of compliance, trust, resources, and participation ...we would lack the individual capabilities to function as citizens, producers, and biological beings,” and so more weight should be accorded to mutual support (21). Sangiovanni emphasizes, however, that RBI grounds egalitarianism “in the notion of reciprocity rather than in the idea that no one should be worse off than anyone else through no fault of their own” (29). So, although RBI’s domestic principle compensates an individual for “the unequal effects of bad brute luck,” it rejects the idea that these duties are owed “independently of the relations in which people stand” (29)

3.2 Relational Justice and Reciprocity

Sangiovanni argues that two factors distinguish the “global order,” composed of transnational, supranational, and international institutions and regimes, from the case of states. First, “even the most

comprehensive” institutions of the global order have a “comparatively narrow...range of areas over which [they] have authority” (21) Second, he argues that the global order lacks the basic regulative, extractive, and distributive capacities of states, except that which is provided through the cooperation of states. Therefore, he says, the global order cannot “sustain (on its own) any kind of society at all,” as it lacks the “autonomous means of coercion...[and] the financial, legal, administrative, or sociological means to provide and guarantee the goods and services necessary to maintain and reproduce a stable market and legal system” (21). Sangiovanni acknowledges that some states receive external financial support through extranational institutions, and that the global order “secures the recognition of the state as a legal person in international law” (20). However, he argues that citizens and residents “provide the financial and sociological support required to maintain the state” except in “the most extreme cases” of extranational support from the global order (20). Therefore, he concludes that the global order does not supersede the essential role of the state in the provision of the “basic collective goods necessary for acting on a plan of life [that] conditions the content, scope, and justification of distributive equality” (22). On the RBI account a future global order, or perhaps a regional supranational order, “could acquire autonomous distributive, extractive, and regulative capacities,” in which case material “equality as a demand of justice” may apply globally (22). However, Sangiovanni argues that no such order presently exists and thus (for now) egalitarian justice only applies within states.

Although Sangiovanni appeals to reciprocal duty, rather than ‘active engagement of the will,’ as the grounds for egalitarian justice within a state, he confronts the same basic problem as Nagel – that “an arbitrary distinction is responsible for the scope of the presumption against arbitrariness” (Nagel 2005, 128). On its own, this fact is not necessarily a problem. Natural contingencies may be considered morally arbitrary in their origins, but distinctly *non*-arbitrary in their implications. However, in the case of internationalist theories, the principal hazard is selecting a variable that, if plausible as a justification for egalitarian duties, pays little heed to the fact of state boundaries. Turning attention exclusively to

fair dealing seems to risk highlighting what many find objectionable in global politics, while maintaining an internationalist thesis may require ironically denying that anything ought to be done. In the next section, I will consider what I take to be the principal objection to RBI. Roughly that, if mutual support in the provision of basic goods is the measure of fair return, one's status as citizen or resident with a particular state ought not to influence one's eligibility in an egalitarian distribution as a matter of justice.

3.3 Globalism, Fairness, and the Modern State

Sangiovanni presents an intriguing response to Nagel's approach. By emphasizing reciprocity, in place of voluntariness or coercion, he aims to avoid having to make fine-grained distinctions regarding the degree to which extranational parties are coerced by their circumstances or their association with others is voluntary. However, affixing egalitarian duties to the production and maintenance of certain goods invites concerns that, irrespective of whether they occur under the auspices of a shared coercive system, present-day global affairs represent a fundamental departure from fair dealing, which calls out for the recompense of egalitarian justice. Abizadeh (2007) argues that reciprocity theory "falls prey to the status quo bias," by holding that "demands of distributive justice arise only between persons whose social interactions are *already* conducted on fair terms" (330). Tan (2003) similarly argues that "the reciprocity argument's allusion to shared institutions is only a red-herring" (441).

Tan argues that the "reciprocity argument assumes that institutions define the boundaries of justice, when it is the justice of these boundaries that needs to be examined" (2003, 442). Therefore, he says, "we still need to ask why we are imposing that scheme on this particular group of individuals and not on another" (442). According to Sangiovanni, Tan's criticism of reciprocity theory "assumes a globalist answer to the very question at stake" (2007, 37). He argues that, if one does not assume the globalist thesis ahead of time, there is nothing amiss because a reciprocal duty of egalitarianism "applies among those who share in the provision of the basic collective goods" (38). Whether we violate someone's claims would depend on whether "we violate their entitlements as given by an *internationalist* concep-

tion,” and “states are the agents ultimately responsible for the provision of” the basic goods (38). Therefore, duties of egalitarian justice apply to members of the state because of the distinct context in which mutual contributions between members occur; namely, one in which each is contributing to a system that is responsible for each individual’s life prospects (37-38). Tan appears to be taking a somewhat different line of criticism than Sangiovanni suggests, however.

According to Tan, one’s duties of justice “cannot be considered in isolation from the background conditions of justice” (442). He argues that if “the criterion of reciprocity demands that I show you special consideration because of our joint participation under a coercive scheme, the criterion of *justice* would demand that I use *only* resources that are rightly mine when doing so” (442).⁶ Tan argues that “before we can know what I may rightly give to my fellow members, we must all first agree on what is rightly mine” and, in order to do so, “we need to take into account the claims of not just fellow members but the claims of non-members as well” (442). Whether an individual contributes to the maintenance of a state’s system, or to the sociological or economic support of its citizens and residents, does not necessarily depend on physical proximity or political classification. Depending on a state’s laws, a nonresident citizen may still owe fiscal contributions such as taxes, may economically transact with a state’s residents, and may otherwise through their interactions contribute to the maintenance of particular social goods. A nonresident noncitizen is able to contribute in the latter two ways, but the first way is possible as well. Depending on the laws of a particular state, nonresident noncitizens may pay taxes on their income from work performed within a particular state and on commercial transactions in the locales in which they work. At the same time, they contribute to the domestic product of that state; typically to the relative economic advantage of its members. Nonetheless, of these three above, only the

⁶ This statement at first appears to conflate coercion and reciprocity theories, but I take what he means here to reflect something akin to Sangiovanni’s claim that “state coercion is relevant to the construction of a conception of egalitarian justice” as an instrumental consideration (2007, 20).

citizen would be included in an egalitarian distribution, and so in this case Tan would argue that the state and its citizens and residents obtain a return in excess of fairness.

According to Abizadeh, the reason RBI would find this result permissible is because it “misconstrues a potential *demand* of justice for one of its existence conditions,” and in doing so exonerates unfair dealing at the behest of the beneficiary (337). According to Abizadeh, a theory of justice can “require” particular conditions in three different ways. If a theory “presupposes the existence of a basic structure before its demands arise,” then the basic structure is an existence condition (324). If the theory “*includes* (and so constitutively demands) a basic structure as one of its constituent parts,” then the basic structure is a constitutive condition (324). On Abizadeh’s account, if a necessary existence condition is missing, “then demands of justice do not arise and the scope of its application is thereby curtailed” (324). If a necessary constitutive condition is missing, “justice precisely demands the realization” of that condition (324). In the case of reciprocity theories, he argues, justice “demands the fairness of social interactions as a constituent part” (331). The reason, he says, is that “it is not possible to specify and to ensure a fair return unless the conditions of background justice have already been secured” (337). Therefore, “where there exists social interaction without a basic structure: the cooperation theory demands the creation of a just basic structure” (332). On Abizadeh’s account, a theory contains a “status quo bias” when it conflates “the existence and constitutive conditions of justice” (330). By instead requiring that background conditions of social cooperation exist *prior* to any claims of justice, Abizadeh argues, RBI implies that “if my equality or freedom is not recognized by the ideals embedded in my public culture, then I have no standing to demand that, as a matter of justice, my equality or freedom be publicly recognized” (338).

This objection appears incomplete, however, because Sangiovanni would undoubtedly respond that Abizadeh is presuming a globalist alternative as the principled standard for fair dealing *in order for* the ‘status quo’ objection to count against RBI. Sangiovanni, like Nagel, assigns to the relational (or ‘po-

litical') viewpoint the idea that "principles of distributive justice cannot be formulated or justified independently of the practices they are intended to regulate" (2007, 5). Sangiovanni would likely argue that justice prescribes intrastate egalitarian distribution, with perhaps suitable international support in developing the requisite institutions, and thereafter an independent principle for international regulations that would preserve justice as measured by *that* structure. That is, if states are internally just, then the unjust effects that arise in global transactions may be resolved by suitable principles which observe the structural differences between state and global orders. However, even if one does not share Abizadeh's skepticism of an internationalist theory of some form, the basic considerations that Sangiovanni raises in his account seem to invite tension with the conclusions he draws. From the standpoint of RBI's minimal domestic eligibility standards, it seems as though some ineligible individuals are likely to exceed the magnitude of contribution or participation of some eligible individuals who happen to be fortunate enough to reside within the state's territory. One's return in this circumstance seems to be determined by another party's unequal power, and discretion towards withholding compensation, rather than the fair value of one's contribution as measured by RBI's own criteria. Much of the difficulty in avoiding these inferences stems from both Sangiovanni's specifications of eligibility criteria and basic goods within states, and the character of Sangiovanni's responses toward skeptics of justice domestically.

3.3.1 *Setting the Contours of Reciprocity*

RBI, as a relational account, holds that "the practice-mediated relations in which individuals stand condition the content, scope, and justification" of distributive principles (5). As Richard Arneson (2004) observes, by proposing that distributive equality amounts to fair compensation for one's contributions, reciprocity "needs a standard, a measure" (136). This standard conditions the *justification* for a reciprocal demand of egalitarian justice. We also need to know "what is the measure of repayment" when determining whether a reciprocal duty is triggered, which conditions the *content* (136). The selection is very important, because for Sangiovanni to maintain the plausibility and internal consistency of

RBI, the standard must avoid the consequence of excluding anyone domestically who otherwise seems properly included in an egalitarian distribution, and avoid including anyone outside the state whom he deems properly excluded. According to Sangiovanni, under RBI, citizens and residents “who cannot contribute or cooperate in any way...do not have any claims deriving from a conception of distributive equality” (2007, 31). However, the “very severely disabled” retain claims deriving from their equal moral worth as human beings, including “claims to the alleviation of suffering and pain, where possible” (31). RBI does include “people who are able but unwilling to work” among those eligible, so long as those individuals “continue to comply with the laws (and if they continue to pay taxes, assuming they have any to pay) (28 n. 45). In this case, such individuals are still “participating and contributing to the maintenance of the state according to RBI,” and thus considered to have aided “in the mutual provision of a system of societal norms which allows me, along with others, to develop and make use of my talents and abilities” (28 n. 45). Although he leaves open the possibility that “it would be legitimate to scale the benefits” to unemployed individuals “by their willingness to search for work (given the ability),” any scaling must still be “justified in terms of a conception of distributive egalitarianism” (28-29 n. 45).

As I understand Sangiovanni’s stipulations, a citizen or resident of a state would have to either (1) be functionally incapacitated, or (2) be unemployed, refusing to seek employment, *and* refuse to comply with the laws of the state (i.e. exceedingly uncooperative; even antagonistic), in order to forfeit his or her entitlement to a ‘special presumption against the unequal effects of brute luck,’ and eligibility in an egalitarian distribution as a matter of “fair return” for his or her contributions. Initially, this standard may seem rather permissive in light of the relatively demanding reciprocal duty of egalitarian justice; that is, as a matter of compensation or *return* for one’s contributions. However, Sangiovanni does cite fairness rather than “narrowly self-interested” conceptions of reciprocity, and the diversity of ways in which citizens and residents contribute to the support of one another entails a broader assessment of fairness on the RBI account (26). I also take it to be the case that Sangiovanni is considering the realistic

effects of unequal distribution on the willingness of some members of a society to participate in some domain in which he or she is or feels particularly disadvantaged in opportunity or treatment. In any case, the permissiveness of this standard offers a stark contrast with his contention that egalitarian duties only apply among fellow citizens and residents, and end at the borders of states. Sangiovanni's argument in support of RBI seems to make this contrast *more*, rather than less perplexing.

Addressing a hypothetical "well-off" individual who is skeptical of domestic egalitarian justice, Sangiovanni responds by arguing that, without the background conditions of the state system, one's talents and efforts may "have been little use to anyone, and would certainly not have garnered the returns they do now" (25). In addition, he says, "were people to have had different preferences and tastes, [one's] talents might not have had any market value at all" even with the requisite social and economic system in place (25). He also considers a wealthy objector in a state that "does not claim any responsibility for providing basic goods and services to its citizens and residents" (i.e. a "nightwatchman state"), who argues that "the talents and abilities of the well off have been developed and acquired through purely private means" (35). In response, Sangiovanni argues that even in this society, the wealthy "*do* depend for their capacity to make use of their talents and abilities on the contributions of other citizens and residents" (35). Fellow citizens and residents contribute, he argues, through their compliance with private laws that protect the property rights and entitlements of the wealthy, taxes and other fees that support the legal and institutional apparatus of the state's regulative, distributive, and extractive capacities, and often times through their sacrifices in military service to the state (35).

In other words, the "institutionally mediated relationships" in this nightwatchman state occur under the auspices of a system that *does not* claim responsibility to provide "unemployment compensation, retraining, housing, and so on" or to provide institutions in which an individual "is able to maintain her capabilities, over a complete life, to secure an adequate income" (34). Nonetheless, on Sangiovanni's view, well off individuals who object to egalitarian distribution fail to account for the fact

that what “makes possible the benefits we can derive individually from social cooperation is only in part the use of our own natural endowments, taken in isolation” (28, n.44). “More importantly,” he argues, “the specialized use we can make of our natural endowments within any modern market requires *the participation and cooperation of millions of others in a political, social, and economic division of labor backed up and enabled by the state,*” and so the “distribution of natural endowments” can be understood as a “common asset” (28 n.44; my emphasis). Therefore, “in continuing to support the night-watchman state, RBI says that the well off are therefore failing to provide a fair return” (35).

The distinction Sangiovanni casts is not necessarily contradictory on its face, but it at least seems perplexing. While arguably similar institutional facts exonerate the state and its citizens and residents from a charge of foul play in the case of foreign contributors, in this case Sangiovanni charges that the beneficiary is obliged to “treat their natural and social advantages as morally arbitrary” in this case (35). The extensive and repeated emphasis of the counterfactual dependency of one’s circumstances on the cooperation and contributions of others in the domestic context seems at odds with the relatively discontinuous perspective taken in the global context. A globalist critic would likely note that, in a society that claims *no responsibility* to provide basic goods, an individual who privately contracts for goods such as education, health care, and transportation is still considered to have his or her advantages causally and morally subsumed under the state system. Yet, despite the extensive interactions between states (and their respective members) that may be unequally beneficial to and shore up the advantages of wealthy states, Sangiovanni describes these states as ‘autonomous,’ rather than interdependent.

It seems as though a globalist would be left bewildered by Sangiovanni’s refrain in appealing to the fact that millions of others *outside the state* (either physically or politically) make contributions that enhance the capacity of a state’s citizens and residents to make specialized use of their natural endowments in a modern market. That is, even when the impact of these contributions may at least be comparable to those who meet the minimum domestic criterion of contribution, relative to the benefit con-

ferred to a wealthy citizen of a nightwatchman-state. Sangiovanni might respond that the difference is a lack of a shared system, under which these respective states transact. However, Tan and Abizadeh would argue that this is the very problem that the nightwatchman state case serves to highlight. States are permitted to exploit their respective ‘natural’ and ‘acquired’ advantages and opt out of recompense, while Sangiovanni’s response suggests that states may continue to do as long as they remain uncooperative and make sure to remind everyone about it. This is a peculiar result, but it makes more sense when taking into account that it resembles the problem Nagel faced with joint-authorization.

The underlying source of trouble for reciprocity or cooperation accounts (such as RBI) appears to lie in how they permit certain norms, principles, and demands to be known *pre-institutionally* and held or applied *individually*. In doing so, these theories invite the inclusion of pre-institutional norms into their most basic formulation of social cooperation. As a result, if one includes a pre-institutional norm of ‘fair return’ or cooperation which implicates a duty between morally equal parties to ensure that neither party enjoys arbitrary advantage, and the underlying notion of ‘arbitrary’ is best considered a universal and pre-institutional contingency, then the subsequent internationalist thesis will appear to require a uniform and global application of the specified norm. If this is the case for RBI, then it appears that Tan’s demand, that each party has a fair claim on that which he or she contributes, simply appeals to the pre-institutional ideal of cooperation that had been stipulated (albeit obliquely) into RBI.

These findings may reflect Richard Arneson’s observation that reciprocity-based theories risk “confound[ing] a moral and a purely strategic idea of reciprocity” (2005, 136). Arneson cites that the “strategic idea of reciprocity is that one should return good for good and evil for evil,” which serves as a “counsel of prudence that if followed will redound to one’s long-run advantage if one is interacting with a population of reciprocators acting on this same maxim” (135). Prudence, however, is “not to be confused with morality” – when a theory requires that “the measure of repayment has to be set by whatever correct moral principles specify,” in place of appealing to what can simply “be rationalized by prudent

calculation," a moral requirement of reciprocity consists in the maxim that "one should be disposed to behave toward others according to whatever the principles of morality require" (136). In other words, reciprocity *itself* "becomes a formal notion," rather than a substantive notion, and as a result becomes a vehicle for any moral principle one might choose to impute to the theory, such as a maxim of social cooperation which includes moral restrictions on permissible sources of advantage.

One way of understanding the difficulties raised for Sangiovanni's theory is through use of the (oft-cited) strategy of treating the ideal of social cooperation as akin to decision-making under ideal conditions of neutrality, in which no party may receive unequal regard or treatment. Difficulties, associated with avoiding a charge of non-neutrality, appear in their most severe form when considering a 'special presumption against the unequal effects of brute luck,' because this principle serves as a *ceteris paribus* condition that, by taking a universal contingency (e.g. 'luck' or 'unchosen and unbargained-for' advantage and disadvantage) as its point of reference, thereby broadly homogenizes the interests and perspectives of all parties involved to produce a uniform and universal standard of comparison. If reciprocity is understood as an ideal of decision-making, and all parties whose interests must be accounted for share most if not all of the same considerations that would factor into what an individual would hypothetically need, want, or find objectionable given the results of a particular decision, then the resulting principle will be comparably broad in its ambit. Thus, if one of those considerations is that all parties undoubtedly would (or should) want or need relief from the 'unequal effects of arbitrary inequalities,' and a presumption against arbitrariness of some sort is devised, then *ceteris paribus* this presumption applies universally, absent suspension of the neutrality requirement.

Aside from this issue, if Arneson's observation is correct, a theory which confuses a strategic with a moral notion of reciprocity may also confuse a procedural ideal with a moral ideal. A procedural ideal may entail that a particular institution, to which the ideal may apply, must first be voluntarily created before assessing whether one acts in accord with that ideal. A moral ideal, however, can be pre-

institutional. Though not always the case, some moral ideals may require the *creation* of a particular institution, once certain conditions hold. Thus, if a reciprocity theory incorporates an ambiguity between strategic and moral notions of reciprocity, it risks treating a relational ground of justice (i.e. a moral imperative to create a particular institution) as a mere opportunity for strategic beneficence.

Although Sangiovanni and Nagel offer differing accounts of global justice, they have a common feature that appears to enervate their respective internationalist theses. Both accounts incorporate a schema of distributive justice in the domestic context that was broadly similar to that utilized by their critics at the global level. In doing so their accounts entailed what appeared to be a highly asymmetrical (i.e. non-neutral) attribution of duties and entitlements to individuals, because the only remaining theoretical distinctions were the sorts of factors that their domestic theories abhorred. Thus, if the justification for this asymmetry failed to hold, the theories collapsed into globalist counterparts. In other words, Nagel and Sangiovanni appeal to facts that seemed to be regrettable features of the world polity, at least if analogous circumstances appeared domestically, rather than factors that seemed to carry a genuinely unproblematic moral status. As a result, their internationalist perspective appears *biased* to a status quo or otherwise to a result that falls well-short of the egalitarian vision expressed by their respective domestic theories. In the next chapter I will consider Michael Blake's account of global distributive justice, which includes two characteristics that distinguish it from that of Sangiovanni and Nagel. First, Blake takes his account of global distributive justice to be a specific application of a more general moral principle that demands equal respect for individual autonomy, rather than a duty of recompense. Second, Blake's *principle of autonomy* is intrinsically sensitive to how an individual's environment, including relations with other individuals or institutions, bears upon his or her autonomy. Blake's account is at once *global* and *neutral* while at the same time incorporating individual relations (to other individuals and to institutions) in setting the features and boundaries of distributive justice. As a result, Blake's theory appears to more credibly withstand charges of non-neutrality and bias to the status quo.

4. MICHAEL BLAKE: FROM INDIVIDUAL AUTONOMY TO RELATIONAL JUSTICE

According to Michael Blake (2001), many liberal theories contain principles that mandate “some degree of economic equality,” that concern for economic equality “is a plausible interpretation of liberal principles only when those principles are applied to individuals who share liability to the coercive network of state governance,” such as citizens of the same state (258). Blake holds that distributive justice is “applicable only within the national context...because the political and legal institutions we share at the national level create a need for distinct forms of justification” (258). However, Blake says that if someone faces “drastic poverty and deprivation,” a state he associates with “much international poverty,” there is a responsibility to improve that individual’s status (259). In that case, once someone is above a minimal threshold, the responsibility to improve their status is met. This chapter will proceed with a different structure than the previous two. I will start with a general exegesis of Blake’s account that I take to be sufficient to fairly represent two major lines of criticism for Blake’s view, which pose (1) that the value of autonomy cannot sustain a demand for egalitarian distributive principles, and (2) that justification for state coercion, in the form of egalitarian distribution, cannot be limited to individuals residing within the state. I will subsequently consider an interpretation of the principle of autonomy that departs from that which typifies the secondary literature, and thereafter re-consider the objections.

4.1 The Principle of Autonomy

According to Blake, a liberal theory of distributive justice that is “committed to the global protection of individual autonomy...stands as a plausible candidate for a defensible and internally coherent liberalism” (266). In line with this contention, he aims to develop his view around what he calls the *principle of autonomy*, according to which “all human beings have the moral entitlement to exist as autonomous agents, and therefore have the entitlements to those circumstances and conditions under which this is possible” (267). Blake discusses four general features of autonomy: (1) it is the ability to develop

one's own goals and choose with whom one associates (2) having practical reason alone is not sufficient to be autonomous, (3) autonomy doesn't require maximization of one's options, and (4) when our options are manipulated by another, this manipulation violates our autonomy (267-270). Autonomy reflects an ideal of human agents as creating value in the world through their choices and relationships with others, and requires that an individual's options "provide adequate materials within which to construct a plan of life that can be understood as chosen rather than forced upon us from without" (269-270). Finally, he says that the actions of individuals alter the options open to themselves and to others – "there is a world of difference between becoming a doctor because it seems the best option realistically open to me, and becoming a doctor because someone else has made it the best option open to me by making other choices difficult or impossible to pursue" (270). According to Blake, what matters is whether an individual's set of choices reflects a conscious attempt, on the part of another, to manipulate the individual's choices in order to subsume her will under that of the other. Coercion "demonstrates contempt for the individual coerced," and is *prima facie* forbidden by a liberal principle that demands respect for individual autonomy (268) Therefore, coercive features of a system must be justified by some means consistent with liberal theory and with respect for individual autonomy.

Although the principle of autonomy carries a presumption against the coercion of all individuals, Blake says that "if I consent to remove from myself the means of autonomous action in some area of life....then the moral harm of coercion no longer seems to exist" (273). Blake appeals to the institutions of criminal and civil law in order to illustrate examples where coercion may be considered justified. Criminal punishment is a paradigmatic case of state coercion on his view, intervening in the autonomy of individuals through their incarceration or, in particularly stark cases, execution, and is "presumptively forbidden as a violation of autonomy" (275). Yet, most people generally consider criminal punishment to be a morally permissible form of coercion. Blake says in this case we appeal to the idea of *hypothetical consent* where "if the prisoner in the dock could not reasonably reject a coercive rule licensing incarcer-

ation for his offense, then we may take him as having consented, as a reasonable agent, to the imposition of that coercive legal rule in the first place” (274). Blake contends that civil law, too, is “rife with coercion” (277). Whenever a civil judgment is made, Blake says, legal rights are coercively enforced, even to the point of potential incarceration on the basis of failure to accord with the dictates of the state (e.g. one may be held in contempt of court). He also appeals to the US Supreme Court’s analysis in *Shelley v. Kramer*, which held that enforcement of restrictive covenants on use of land constitute of a form of state action and thus, he says, a form of coercion by “ultimately legitimating the use of force” in order to enforce the covenants (278). Blake concludes that “all of the forms of legal rules we use are ultimately backed up with coercive measures that implicate the liberal principle of autonomy” (278).

4.2 Distributive Justice at Home and Abroad

According to Blake, the laws that collectively make up the system of civil law in a state create a “pattern of entitlements” that “defines how property will be understood and held, and what sorts of activities will produce what sorts of economic holding” (281). The laws of the state regulate what may be held as property, which forms of private agreements will be enforced by the state, and what private resources may be demanded in support of public purposes. On Blake’s account, these features of civil law (and, where applicable, backed by criminal law), coupled with a requirement to justify coercion, give rise to a demand for justification that is met by appealing to principles of distributive justice regulating relative shares of resources, to which no individual subject to the system could reasonably reject (291). The least-well off cannot reasonably reject the principle, because there is no alternative principle that would leave them better off. Blake believes that any justification for state coercion will “inevitably constrain the forms of material inequality permissible within the confines of the state, given the need to justify coercion to the least favored members of society” (284).

In the case of international affairs, Blake argues that “no matter how substantive the links of trade, diplomacy, or international agreement,” international institutions that presently exist do not en-

engage in the sort of “coercive practices against individual moral agents” that states do against citizens of that state (265). Blake then tells a story of Borduria and Syldavia who engage in a course of interaction such that there are “widespread links of trade and diplomacy” that, while providing advantages to citizens of both countries, tend to advantage Bordurians to a greater degree than Syldavians (291). In this scenario, Blake says that Borduria has no obligation to consider the relative share of resources held by Syldavians as part of a common distribution, because nothing coercive is occurring. On his view, “Bordurians’ offer of regular trading routes was not a coercive offer...they were under no [prior] obligation to do anything with or for [Syldavians] at all” (292). Blake says that liberal egalitarian principles do not obligate a country to “maximize the world’s welfare...but we are under an obligation to avoid denying conditions of autonomy for all human beings” (293).

The principle of autonomy does demand a concern for what he calls “absolute deprivation,” which he describes as “a threshold to decent human functioning, beneath which the possibility of autonomous human agency is removed” (259). Blake does say that coercion “can occur both between nations as well as within them” (280). However, he says that international legal institutions “do not engage in coercive practices against individual human agents,” while other “forms of coercion in the international arena, by contrast, are generally indefensible – or, if they are defensible, do not find their justification in a consideration of their distributive consequences” (280). Owing to both his analysis of coercion and of international justice, Blake’s argument has generated considerable response. Richard Arneson and Simon Caney argue that coercion does not necessitate justification in the form of egalitarianism. Kok-Chor Tan and Arash Abizadeh argue that, even if granting that distributive principles are demanded by a liberal commitment to autonomy, Blake has failed to show that such principles only apply to individuals within a state. In the final section, I will be considering both lines of criticism.

4.3 On the Relevance of Coercion

Simon Caney (2011) argues that Blake does not adequately defend his use of autonomy as the normative basis for principles of distributive justice, citing that coercion does not seem to justify any special duty to treat others as equal. He argues that “coercion does have moral significance but not for egalitarian distributive justice” (520). Instead, coercion is relevant because it “bear[s] on the legitimate exercise of political power” (520). Caney suggests that coercion may entail a “legitimate decision-making procedure,” but that “‘political legitimacy’ is not the same as justice” (521). Political legitimacy, he says, would seem to only require that a political power “has a fair decision-making process that includes all relevant actors and is conducted in an impartial manner” (521).

Richard Arneson (2005) argues that morally justified laws, backed by the threat of penalty (and thus coercive), “would not in the slightest diminish the autonomy of fully moral and reasonable persons,” since such individuals choose to act on the basis of there being good moral reasons to act as they do, rather than a desire to avoid penalty (148). According to Arneson, coercion is said to occur “when one person threatens another and the threatened person complies with the threat, choosing the act that complies in order to avoid the threatened penalty for noncompliance” (147). However, he says, an individual is *not* coerced, even if non-compliance is backed by the threat of penalty, if their decision to comply was not motivated by the threat of penalty (148). Arneson concludes that if state laws “steer people toward acts that all things considered they morally ought to perform,” then either (1) those laws do not actually infringe on affected individuals’ autonomy (if the individuals are reasonable and moral), or (2) the autonomy that is lost is “not significantly valuable” as the individuals coerced are “prone to act immorally” (149). Therefore, he argues, “it is not so that the coercive laws that the state enforces must massively infringe the autonomy of those subject to the laws and can only be justified *inter alia* if the system of laws provides adequate compensation for this loss of autonomy” (149).

The importance of this line of objection is that if all that is necessary is ‘consent’ or ‘choice’ *in fact* to justify a particular system, even if one thinks that consent *ideally* would have been withheld, it seems as though we might say that a just society is an adequately mollified society. In addition, defeasibility conditions that are ordinarily in the power of individuals to create (e.g. actual choice)) may be exploited to un-egalitarian aims. People can, and often do make choices that ultimately harm them in myriad ways and not everyone is disposed to do what will promote one’s autonomy. However, many of these pitfalls are often attributed to factors that are considered worthy of exclusion in an idealized process. Thus, many theorists will be concerned if it looks as though a theory can be self-effacing in this way, particularly if it seems as though the best explanation for that now-‘justified’ disadvantage appears to be that it was caused by the very factors with which the egalitarian theory had concerned itself at the start. Blake does suggest that being a *unified* system of laws is what creates an especially burdensome demand of justification. It is not a simple matter of moral rules that most would ordinarily agree to and comply with. The civil law (and the legal system as a whole) designates and enforces many of the options that reasonable and moral citizens will have in its regulation of the use, transfer, holding, and acquisition of goods. At a minimum, those who would be worst-off may reject a system that, on the basis of morally irrelevant or arbitrary factors, privileges some over others. Thus, institution of an egalitarian principle of distribution is the only option that could not be reasonably rejected by any individual living under the jurisdiction of that system. These are considerations that Blake frequently raises on the subject of coercion. However, while these may be worthy practical considerations, they do not provide clear guidance regarding the moral status of hypothetical versus actual consent.

It seems as though the problem could be described another way as well. In the previous chapter I discussed Arneson’s contention that reciprocity theories construe ‘justice’ or ‘fairness’ into a ‘formal notion’ that functions as a byword for ‘always do that which morality requires’ in a given circumstance. The result is that one risks collapsing a useful distinction between morality and justice so that reciprocity

simply means ‘treat one another morally.’ In this case, Caney and Arneson appear to be concerned that, if the principle of autonomy entails that one must be treated only in ways to which one would consent (on whatever grounds), then all that is required to justify state coercion is consent (on whatever grounds). Caney and Arneson may press Blake on the normative status of actual and hypothetical consent. In the case of criminal law, it is easier to see how hypothetical consent might be needed in many cases because the state is ordinarily treating someone in a manner that he or she contemporaneously would not choose. However, as Caney elsewhere (2008) argues, there is some ambiguity in Blake’s account as to why “a commitment to justification entails a commitment to egalitarianism” (504). Caney suggests that a requirement for justification may only entail “giving the philosophical reasoning for one’s view,” in which case justification would be compatible with other principles (504). One way of recasting the problem, and in doing so provide the opportunity for closer examination of the issue, is to return to Blake’s use of the notion of hypothetical consent.

4.3.1 *Autonomy and Consent*

Blake says that both Rawls and he “take the existence of the state as a pre-theoretical given,” and begin “with the fact of state coercion and see[k] to find a way by which this coercion might be justifiable” (2001, 286). Behind a veil of ignorance, where individuals do not know what their “self-chosen goals and relationships” will be, it may be justified to favor principles that will ensure that any (at least reasonable) choices may be pursued. Blake says we can think of this situation as resembling the conditions of hypothetical consent. However, if Arneson and Caney are right, the requirement of justification is just that – laws must be justified to the individuals so coerced. There may be cases in which individuals affirm a system of laws as acceptable, in response to compelling philosophical justification, and be seen to do so autonomously in the absence of egalitarian distributive principles regulating their holdings. The problem seems to arise, at least in part, due to Blake’s use of Scanlon’s formulation of hypothetical consent. One preliminary issue is that he terms this strategy the use of a “device,” so it is ambiguous

whether he means that actual consent is morally co-equal to hypothetical consent, and whether we should interpret hypothetical consent as *substituted* consent, when consent is not forthcoming. Second, the legitimacy standard Blake quotes from Rawls is “all citizens may reasonably be **expected to endorse**,” while Blake’s is “[all citizens] **could not reasonably reject**” (283, 286; my emphasis). Blake uses the latter formulation as though it is equivalent. However, this criterion is a *minimal* standard of justification. I may still in fact consent to something *even if* I could have reasonably rejected it. I will return to this issue after re-examining the principle of autonomy. Before doing so, however, I want to discuss the second line of criticism.

4.4 Interdependence, Autonomy, and Global Comparison

According to Abizadeh (2007), Blake’s theory fails to address the problem that states coerce “outsiders” – individuals who are not citizens of the state – through the “vast network of ongoing coercion by foreign states that restrict their movement across state borders” (348). Kok-Chor Tan (2006) argues that the global interaction of international and domestic law, along with extranational and supranational regulatory organizations, form a persisting and coercive system which can only be justified through material equality at the global scale if appealing to impartiality as a value (328).

Abizadeh considers three formulations of Blake’s view, intending to show that no interpretation can escape the charge that Blake’s theory fails to account for differential treatment between citizens and foreigners. According to Abizadeh, Blake’s argument contains the following thesis, “if someone is a foreigner of a state, then nothing requires concern by the state for her relative deprivation,” which Abizadeh labels as the anti-cosmopolitan thesis or “ACT” (2007, 347). Second, that Blake is committed to normative premise N1, “if x requires concern by the state for the relative deprivation of an individual, then x is ongoing state coercion against that individual (requiring justification)” (348). Third, Abizadeh attributes empirical premise E1, “there is no ongoing state coercion against any individual such that she is a foreigner of the state” (348). From these three premises, he says, Blake derives ACT. Abizadeh ar-

gues that E1 is false – foreigners do face ongoing state coercion by the border controls that restrict their movement within a state’s boundaries. Abizadeh likewise rejects a modification of E1 into E2; that ongoing state coercion does not have a “pervasive impact” on the life chances of an individual. He says this premise is also false, as “policing of those borders do ‘profoundly and pervasively’ affect human beings’ life chances in our world;” some individuals are even willing to “risk life and limb to cross state boundaries” (349-350). Finally, he considers E3; that “if someone is a foreigner, then there is no ongoing coercion against her by the state (to which she is foreign) that is regulated by a system of law” (350).

Abizadeh concedes that E3 is true, insofar as that there is no comprehensive international legal system, but he says that E3 (in combination with normative premise N1 above) doesn’t support Blake’s thesis (ACT). According to Abizadeh, ACT requires another normative thesis (N3), which he says Blake provides, quoting: “the existence of a coercive network of law is a precondition of a concern with relative deprivation” (350). In other words, a very similar premise to that attributed to Nagel and Sangiovanni. Abizadeh responds “[t]hat Blake actually says this is surprising because making N3 explicit exposes the perversity” of this normative premise. On Abizadeh’s analysis, this premise would permit states to opt out of extending to foreigners the same responsibilities it faces towards citizens, simply by coercing them lawlessly, which Abizadeh says is a perverse justification for limiting the scope of distributive justice. In other words, he says, the implication is that “a tyrant can exempt himself from the demands of justice by relying solely on pure coercion” (352). However, as Tan notes, the situation is arguably worse – “It is important to stress that the international order is not simply coercive but *lawfully* coercive” (2006, 328). Tan argues that if (1) the principle of autonomy requires that “a legal coercive authority must be justified to persons living under it in order for that authority to count as legitimate,” and (2) that justification “requires an institutionalized commitment to distributive egalitarian justice,” then (3) the “global economic order that is being imposed on and enforced against all countries and their citizens” requires justification in the form of an *internationally* institutionalized commitment to egalitarian

distributive justice (328-329). According to Tan, through the persistence of multilateral agreements, regulatory institutions, and state border controls, the system of international coercion, like the domestic order of a state, engages in “lawful and *ongoing* coercion” of individuals which “limits the options and opportunities persons effectively have” on a global scale (328).

Abizadeh argues that state policies such as border controls are a “significant tool for regulating the terms of production, exchange, and distribution” in a territory, much as in the case of civil law regulating property rights and economic exchange, and thereby regulate the prospects of non-citizens in the process. In other words, for Tan and Abizadeh, the inequality between Blake’s hypothetical case of Syldavians and Bordurians (and real-life counterparts) is more like denial of political representation that Blake says supports a claim to egalitarian principles domestically (2001, 295). Rather than an autonomous beneficiary of trade with Borduria, Syldavia (and its citizens) may be regulated in ways which shape the choices of Syldavia’s citizens around the interests of Borduria’s, through Borduria’s more advantageous use of Syldavia’s resources for its own benefit, Borduria’s ability to exclude Syldavians from membership in Borduria’s society, and potentially through a combination of treaties and influence on the domestic laws of Syldavia to uphold advantageous transfers or contractual arrangements for Bordurian organizations. Yet, no consent is sought from Syldavians for this coercive treatment. Blake says more about this subject, however, than Abizadeh and Tan seem to give him credit for; he does not have an equivalent view to Nagel, so it is important to distinguish their perspective.

4.4.1 Blake on International Coercion

According to Blake, “what we share with one another necessarily alters what our impartial liberal principles demand” (2001, 285). Blake argues that he does not intend a “largely laissez-faire attitude toward global economic relationships,” and he believes that his requirement of considering absolute deprivation would “mandate a surprising degree of international reorganization and reform” (294). However, on Blake’s view, the principle of autonomy does not require extension of a state’s institutional

apparatus as a remedy for coercion. He says that “the argument we give domestically to defend material egalitarianism simply fails to hold internationally” (2011, 566). In the case of international coercion, he argues that “our response should be to *eliminate the coercion itself*,” not attempt to justify it (567). In the case of states, he argues that those who decide what the state will do (in principle, at least) are also those who are subject to the state’s coercive power; they are “vertically coerced” (567).

It seems as though Blake’s hypothetical case of ‘Empire of Atlantis’ in which Atlantis “emerges from the deep into an impoverished world,” may be helpful in illustrating his response to this objection and highlighting the point of conflict with Abizadeh (2011, 568). In this world, Blake says, Atlantis is “effectively able to coerce all the other states in the world, so that their laws are only those that correspond with Atlantean values” (568). However, the Atlantean President pledges that, so long as “all other states are under the political control of the government of Atlantis, and their internal laws are brought into compliance with Atlantean values, the Atlantean government will operate a “scheme of material equality across the globe; the diamonds of Atlantis will be redistributed until all have an equal share of the world’s wealth” (568). Blake says that we are unlikely to be persuaded that the newly-minted Empire of Atlantis is a legitimate or justifiable political organization, the diamond transfers notwithstanding (569). He suggests, in fact, that the “bribe of diamonds does not even offer a *partial* justification,” because material inequality in the context of domestic justice is not a “separate value from democratic self-government; instead, the former is valuable as part of the latter” (569).

Thus, it is not the simple fact of coercion that calls for a demand for egalitarian distribution; it is that egalitarian distribution is the best way to satisfy the principle of autonomy in the specific case of state coercion to its citizens. This means that Blake’s tacit response to Abizadeh or Tan’s demand is not that a state is *permitted to opt out* from egalitarian distribution. Instead, Blake is suggesting that *it would be wrong* for the state to do so without the consent of all parties who would be subject to the system, including its current citizens. Apart from no longer being surprised by the appearance of the

stipulated 'N3,' Abizadeh would respond that this sounds even more perverse than the previous argument he had attributed to Blake. On Abizadeh's reading this would mean that the tyrant is not only allowed to exempt himself from the demands of justice by citing that his subjects do not consent; he even tells his unwilling subjects that it would only be bribery to compensate them for their submission.

On Blake's view, although cases of international coercion still involve "markedly unfair forms" of coercion, the remedy is different (567). In this case, Blake says, we should be concerned with targeting coercion itself rather than allowing states to coerce one another, or set up a universal coercive system, and then seek to justify doing so through transfer payments or other means of justifying that coercion (568-569). Abizadeh argues, however, that "it will not do to retort that border coercion does not amount to a system of social *cooperation*," because "as is obvious to any migrant worker, the coercive regulation of membership and cross-border movement are important components of the state-imposed regime regulating the terms of economic production, exchange, and distribution" (2007, 356). Abizadeh also references A.J. Julius (2006), who argues that "capitalist economic growth and its politically concerted internationalization" has created a "new material interdependence [that] inspires new projects for shaping outsiders' action to insiders' purposes, and these projects intrude on formerly inward-looking domains of policy and association" (190). As Tan notes, the global order is similar to the domestic order in that "compliance with a certain socio-political order is expected of *persons*...which restricts individual life opportunities and personal autonomy" (2007, 328). Abizadeh would respond that the fact that we live globally in a *degenerate* or *illegitimate* form of world governance, in which accountability is sparse, does not make an obvious case for refraining from advocating for a more just global order.

Abizadeh or Tan may further respond that, if egalitarian distributive justice amounts to bribery *even* in the case of a state's (Atlantis) government bringing *all other* governments into compliance with its own, so that there is some sort of nominal political union, how would a state be justified *internally* in executing a domestic theory of distributive justice? The first response is to note that the Atlantean gov-

ernment hasn't extended political representation. However, states often have policies and institutions that are intended to influence the values held among their domestic populations, and central governments in federal states have been known to make compliance a precondition to funding or other support to subsidiary states. If the answer is that the state is not permitted domestically to do as Atlantis has done to other societies, it seems as though we should at least be able to contemplate reforming the Atlantean government, too. In other words, on Abizadeh's taxonomy it sounds like we are talking about constitutive rather than existence conditions for Blake's theory of justice, which is a matter of feasibility.

Blake does say that, in the specific case of domestic justice, "[w]e think this process of justification is both necessary and possible" (568). As noted previously, Blake says that "we accept that the state is part of even ideal theory," and so the domestic procedure of justification is *necessary*. Second, on his view this procedure is "possible because these states can in principle be made justifiable to all those who stand within their coercive authority" (568). However, the statement "[m]aterial equality is not, on [his] view, a separable value from democratic self-government," seems to cast doubt on the idea that Blake is talking about a practical limitation on international justice. However, if deeming the extension of material equality as 'bribery' is meant to reflect that state governments (or their citizens, for that matter) are simply intractable antagonists when it comes to justice, our liberal commitment to autonomy probably at least supports an active research program on whether this pessimism is justified.

I imagine that from the perspective of globalist theorists if our ideal theory takes states for granted, it need not presume that all feasible states are built in the image of those familiar to us. Tan argues that, for example, through a system of international laws and norms regulating trade, property, dispute resolution, political sovereignty and territorial control, and model laws for domestic and international policy development, there is a "highly complex international legal system under whose regulation all persons are virtually subjects" through a lawful regime of coercion resembling that "attributed to the domestic political society" (328). According to Blake, noninstitutional approaches "ask what sorts of in-

stitutions we would endorse if we were starting from scratch” (2001, 261). One of the concerns for Tan, it seems, is that if the international order is both relatively new, and at the same time seems to behave and is subject to change in ways that may defy our expectations that are set by states, perhaps we *should* embrace a noninstitutional approach. If we reach a point of several Atlantis-like scenarios, when does the justify-or-eliminate dilemma weigh in favor of the former, if we are confronted with otherwise seemingly intractable cases of injustice? A stronger positive theory seems to be warranted. In the next section, I will discuss a reading of Blake’s theory that is oriented specifically towards extracting what may be a more robust positive account, based primarily on aspects of his original (2001) article which appear to be generally overlooked in the critical response literature. In observation of ambiguities in Blake’s discussion that appear to have motivated a number of critical responses, I cannot guarantee that the following reconstruction is point-identical with everything he had in mind. However, I do take it to be consistent with many of the foundational considerations to which he refers, as well as critical responses he offers that in some cases would otherwise be more perplexing than illuminating.

4.5 The Principle of Autonomy Revisited

Although in much of Blake’s discussion we often see ‘consent’ and ‘coercion’ paired with one another in a manner that at times makes the phrase ‘*prima facie* forbidden’ look like a simple formality, the Atlantis case suggests to me that one should not take Blake’s use of the term lightly when it comes to the adequacy of ‘justification.’ Nor should we take it for granted that his view of coercion is truly generalizable in the manner suggested by Abizadeh et al. If I am right about this, then our attention should be focused on the initial portion of his account of autonomy. Doing so appears to answer Caney and Arneson’s objection by responding that state coercion by a just state is *not coercion*. To Tan and Abizadeh, the answer appears to be that the relational portion of the theory comes from the autonomous agents *themselves*, who value certain relations of social and political community. According to Blake:

“[C]oercion demonstrates an attitude of disrespect, of infantilization of a sort inconsistent with respect for human agents as autonomous, self-creating creatures. Coercion, both in itself and because it demonstrates contempt for the individual coerced, is forbidden by a liberal principle that demands respect for the conditions of autonomy” (268; my emphasis).

In spite of this view toward coercion, Blake says that “as a rule, consent is a possible way to justify what would otherwise be prohibited” (274). For Blake, we have good reason to be concerned with this proviso on coercion. The state has a unique and critical relationship with autonomy on his view that demands unique consideration when approaching the subject of individual coercion:

“Only the state is both coercive of individuals and required for individuals to live autonomous lives. Without some sort of state coercion, the very ability to autonomously pursue our projects and plans seems impossible; settled rules of coercive adjudication seem necessary for the settled expectations without which autonomy is denied” (280).

In the case of *prima facie* violations of autonomy by the state’s coercive criminal legal system, Blake says that we ask what the individual “would have consented to, ex ante, under some appropriate method of modeling rational consent” – i.e. hypothetical consent (274). According to Blake, the civil law is “every bit as coercive, if not as dramatic...the fact of coercion is necessarily found within all areas of legal rules” (277). Thus, all other law “require[s] an inquiry into hypothetical justification in precisely the same manner as punishment” as well (277). However, Blake says that if any law “is to have the force of law at all,” *all laws* must be “unified into a legal system” (279). It also means that the law *as a system* “stand[s] in need of theoretical justification,” which means the state must obtain consent from all who are so coerced, individually, for the whole of the system, and we can use a “variant of Thomas Scanlon’s notion of reasonable rejection” in order to do so (274). We now return to the problem raised by Caney and Arneson; why not accept *actual* consent? In other words, what makes that which I am not prohibited from doing, the very same option as that which I would choose?

Almost in passing, Blake says that not *all* instances of consent “are compatible with the principle of autonomy” (274). Blake only provides one example, but it seems to be the most important one for our purposes – that “voluntary slavery, since it abdicates the entire field of autonomous planning for the duration of life, might be excluded” (274). In other words, our conception of autonomy may prohibit someone from issuing indefinite and unconditioned consent, in effect abrogating one’s autonomy. Indeed, the justification for state coercion arises out of this very concern. According to Blake, “we cannot eliminate the state, given the (paradoxical) importance of government for the protection of autonomy” (279). However, if this is the case, why even speak of consent as a *justification*? If one cannot consent to total abrogation of one’s autonomy, and state coercion constitutes such abrogation, it seems that we would be left to contemplate how to justify rejection of the principle of autonomy. In that case, the international theory would be *The Special Case of Foreign Autonomy*: no citizen has a right to autonomy, but each state has a right to autonomy, insofar as justice ordinarily calls for interstate coercion to cease; *not* for it to be justified. From the international standpoint, this suggestion does in fact reflect Blake’s theory. From the domestic standpoint, however, *all* citizens have a right to autonomy and *no state* has such a right. This distinction ends up being obscured by terming the theory a ‘coercion theory’ and discussing justification in terms of consent. However, Blake associates ‘hypothetical consent’ with his formulation of the retributivist justification for criminal punishment, in which the criminal, “as a rational agent, can be understood under the appropriate hypothetical circumstances as having willed it” (274).

In other words, Blake (or at least this reading of his theory) refrains from incorporating *actual* consent as a justification for coercion because the principle of autonomy prohibits *all* forms of consent from justifying state coercion. State *coercion* is not really a *prima facie* violation of autonomy so much as a violation *tout court*; amounting to a total abdication of one’s autonomy. The reason that state ‘coercion’ is justified is that consented-to state ‘coercion’ **is not coercion at all**. According to Blake, “coercive power can be justified only if it is power that can be legitimately understood as a use of power by which

citizens of a democratic regime coerce themselves” (286). This appears to be why Blake makes the distinction between ‘vertical’ and ‘horizontal’ coercion in the specific manner he does, in which certain terms like ‘responsibility’ and ‘agent’ are used conspicuously and (in my estimation) suggestively:

Vertical Coercion: *“The parties to be coerced set up an agent, who then proceeds to coerce all those subject to that agent’s authority. All those who participate in the process of **deciding what that agent will do are**, themselves, subject to the coercive power of that agent...[t]he state itself is comprehensible as an agent, as a bearer of moral responsibility and as a collective agent to whom intentional actions may be ascribed” (566-567).*

Horizontal Coercion: *“The parties act both as coercers and as the coerced. They coerce one another with reference to the norms and principles inherent in the association itself. **There is no agent** to whom coercive agency can be ascribed, **except to the participants themselves**. The association, instead, acts as a set of norms and principles invoked to justify the coercive acts in question” (566-567).*

Citizens do not consent to coercion; they delegate responsibility to the state, as their agent, in providing the material requirements of autonomous life. That is, they *will* (or under appropriate circumstances, *would will*) that the state acts on just principles. The neutrality (equal concern) requirement of hypothetical consent requires that the state is the agent of *every citizen* and has equal responsibility to *each one* individually; hence, Blake’s description of the denial of egalitarian distributive justice as “morally equivalent to the denial of the vote” (295). Thus, the reason that Atlantis cannot ‘bribe’ its way out of illegitimacy is because distributive justice cannot *ever* be compensation, and there is no ‘partial’ justice in ‘partial’ suffrage. No one, not even the state, can buy consent to coercion on the scale of that found in a state’s legal system. One immediate concern is that, under a close reading of the manner in which Blake presents the principle of autonomy, it seems that states retain a right to political self-determination, but *only* as the agent of each of its citizens, to which the state is morally responsible.

Blake appears to utilize this fact to answer to the ‘justify-or-eliminate dilemma’ – that Atlantis must withdraw its coercion of other societies (2001). Attempting to ‘justify’ the empire, even through extension of political representation *and* egalitarian distribution, violates the autonomy of Atlantis’ *own* citizens if they do not consent, even if all other parties were to agree to annexation. The state would forfeit its legitimacy. There is a potential problem with this approach, however. We may have our ideal of ‘state coercion,’ but what do we do about all the non-ideal cases; that is, every state that isn’t there yet? Or, in other words, do we treat most (if not all) extant states as illegitimate and without a right to political autonomy, given that they cannot be said to be agents of their citizens? Or, if we say they can be rehabilitated, there is the ‘status quo’ concern that in such cases we should simply treat the *global* order as one would treat a state system in the case of absolute deprivation; that is, creation of a just (egalitarian) system. Blake’s solution to this problem appears to be precisely what was suggested by the institutional approach to which he appeals: “the content of our liberal principles can perhaps vary depending upon the context within which they are applied” (263).

4.6 Hypothetical Consent and Relational Justice

One of the principal difficulties in the critical discussion of hypothetical consent is that it tends to obscure *just what* neutrality demands of the hypothetical decision-making procedure that theoretically generates a principle of just distribution. Neutrality in this context prohibits treating the interests of any given individuals in an unequal manner, in which some individuals’ interests receive priority in setting the features of a systems of governance that each will share. In other words, no one’s interests may ‘count’ for more than anyone else’s. If the interests of individuals are homogenized and narrowed in our idealization to focus on relative material position (or “well-being,” understood to entail a uniform set of evaluative criteria implicating material equality), then each party to the decision procedure will compare his or her position to everyone else. In other words, to the extent that relational considerations are salient, they remain at a *global* scale within the confines of the procedure. Therefore, an inter-

nationalist theory under these stipulations is left to either withhold application of the procedure globally, or to have the procedure treat individuals unequally in order to successfully impute state-level relational duties that will ultimately leave some worse off than others, while taking for granted that all individuals otherwise have qualitatively indistinguishable interests against being left in such a position. The solution in this case is to reject these stipulations and re-approach the demand of neutrality with a global application of a procedure that nonetheless generates relational duties explicitly from treating the interests of each individual with equal concern.

On Blake's view, the application procedure of the principle of autonomy must be impartial insofar as it is non-relational; it cannot make distinctions between individuals nor among states. The relational feature of the international theory is not built into the procedure; it is part of the idealized conception of agents *themselves*, through what *they* take to be relevant criteria for decision-making even in the case of an original position, or some other appropriate idealized context in which individuals are to devise a mutual system of governance. Representative entities in an impartial procedure will reflect an ideal of human agents as (1) "self-authenticating sources of value," that (2) take part "in reflective deliberation about what values and ideals to endorse and pursue" and (3) "creat[e] value by their creative engagement with the world; their allegiances, choices, and relationships constitute sources of value...through the free exercise of their moral abilities" (269-271). Given Blake's characterization of the state, as the institutional apparatus that serves as the agent of a political community to ensure "the very ability to autonomously pursue our projects and plans" by way of "settled expectations without which autonomy is denied," this appears to mean that each party to idealized procedure is guaranteed a political community, the most autonomous form of which would presumably (on Blake's view) be a state (280). Thus application of the principle of autonomy at the global scale would lead Blake to expect the preservation of separate political communities, because the material advantages of a global difference principle, for example, would advance what is at best a morally secondary concern of autonomy (mate-

rial equality) at the expense of a morally primary concern (value pluralism and self-determination). If all parties are guaranteed a political community, and have substantive guarantees against interstate coercion and protections of intrastate autonomy, on Blake's view the *other* values that underwrite autonomy are more pressing considerations.

For Blake, an "increase in our hedonic tone" is not an increase in the "morally primary aspect of persons upon which liberal theory is premised" (269). The 'materials' at issue in an egalitarian distribution are not a universal instrumentality relative to primary human interests noted above. Therefore, we cannot "read off autonomy simply by looking at either holdings of goods or at number of options realistically available to us" (269). Material equality matters, but at the individual level it matters primarily within a political community rather than outside of one, because of its relation with state's responsibility as an agent to each member and the potential for the specific abrogation of autonomy *within* a system to which material inequality is concomitant. It may be helpful to consider issues related to Scanlon's view that may flesh out Blake's approach to impartiality and perhaps respond to concerns like that raised by Arneson (2005), who contends that there appears to be no reason to "suppose that it is reasonable for those who are relatively worse off within a rich nation, though still advantaged when compared to people everywhere, to insist on special favor as against the globally worse off" (144). That is, even if this type of strategy looks *formally* impartial, is there substance?

4.6.1 Contractualism and Partiality

Thomas Scanlon (1998), whom Blake cites for the notion of hypothetical consent, rejects the view that "the strength of a person's objection to a principle is properly measured by the cost that that principle would have for that person's well-being" (138). Nonetheless, a common theme in critical discussion of hypothetical consent appears to involve this very sort of approach that Scanlon rejects. For Scanlon, our judgments still have to come from *somewhere*, and their source reaches beyond simple considerations of well-being. Scanlon holds that we view the world through a framework of reasons that

is shaped by aims and values we have adopted, and our decisions are based on “determining what these reasons support on balance” (136). He argues that focusing on well-being “distorts” the actual first-person perspective of an individual, and consequently the reasons she has, by “transforming all a person’s aims into what appear to be self-interested ones” (133). Under Scanlon’s contractualism, individuals may only object to principles on the basis of “*personal* reasons, “which “have to do with the claims and status of individuals in certain positions,” such as the effects of a principle on that individual (219). However, we cannot know all the ways individuals may actually be affected, so we “rely on commonly available information about what people have reason to want,” known as “*generic* reasons,” that people “have in virtue of their situation, characterized in general terms” (204).

One’s own welfare may feature as a weighty and important value, but the values associated with an agent’s reasons are “pluralistic;” there is no “master value,” such as well-being (108). In addition, there are “different kinds of moral values” and “different ways of being morally significant” (178). Appreciating the value of human life, for example, entails “seeing human lives as something to be respected,” which involves seeing a strong reason to *protect* human lives “when we can,” and that we think it is “a bad thing when we or others fail in these aims” (104). Importantly, our strongest reasons may involve “respect and concern for the person whose life it is” rather than a “more abstract sense” of valuing human life (104). At first, the ‘value of human life’ may appear to only refer to impersonal reasons that “flow from the value of those objects themselves,” such as those whose lives we value (220). However, Scanlon argues that the importance all individuals attach to “being able to live in a way that recognizes certain values” gives rise to suitably *personal* reasons that, depending on the value in question, may “in turn depend on impersonal reasons, namely on the fact that these things really are valuable” (221). It is important *to us* that we can value human life, and live alongside others who share this value. On account of this personal (and generic) reason, we may properly “take other people’s interests into account in deciding what principles to follow” (202). Scanlon observes that duty “is most familiar in

its negative form, in the feeling of unwelcome restraint,” but there is also a “positive ‘pull’: the positive value of living with others on terms that they [*if similarly motivated*] could not reasonably reject,” which he takes to be “a powerful source of motivation” (162).

As rational creatures, however, we have many values and, for some of these values (such as love or friendship), we have reasons that “are not in general impartial” or oriented toward maximizing a particular state of affairs in a manner that is indifferent to our personal values or interests. So long as these values are shared among us, “what we owe to each other” can be properly regulated by such values as part of the generic reasons that are considered. Thus, Scanlon says that it comes from “quite impartial reasoning...that we are not required to be impartial in each actual decision we make,” because “what is appealed to is not the weight of my interests or yours but rather the generic reasons that everyone in the position of an agent has for not wanting to be bound, in general, by [a principle of strict impartiality]” (225). Individuals may reasonably reject principles “that required us, in every decision we make, to give no more weight to our own interests than to the similar interests of others” because such principles “would be intolerably intrusive” (224).

Taking into consideration Blake’s perspective, impartiality on his view appears to entail equal respect for the fact that each person has a pluralistic body of values and reasons, and that *all* parties must treat one another “only in ways that would be allowed by principles that they could not reasonably reject insofar as they, too, were seeking principles of mutual governance” (106). Thus, Blake argues during his own discussion that what “looks like a case of favoritism is in fact a case in which impartiality has more complicated implications than we expected” (2001, 261). Blake might contend that some of the criticisms utilize a *monistic* conception of human agency, and chiefly one that is concerned with maximizing one’s own welfare, rather than recognizing the capacity of human agents to value autonomy broadly. Ideally positioned, each agent cares about *one another* in addition to themselves, in recognition of shared values that includes human life and the particular lives of others, and in observance of the re-

quirements of autonomy, which includes the ability to exercise control over one's goals, associations, and values. Without these stipulations, reference to the 'value' of autonomy would seem to be a mere formality for expressing that I value only *my own* welfare and relative material position to others, and how these factors bear upon only my self-regarding interests, which presents hypothetical consent as more of an adversarial rather than cooperative procedure. Furthermore, this more adversarial perspective of hypothetical consent fails to capture the 'positive pull' element of morality to which Scanlon refers in his discussion.

This latter consequence appears to be one reason why Blake suggests that the "luck egalitarian" position "seems to rely upon envy, more than anything more admirable than that" and "seems to diminish what gives moral egalitarianism its distinct appeal" (2011, 562). The distinctly self-centered perspective of agents that is often presented in discussions of hypothetical consent contrasts sharply with the other-regarding ethos of egalitarian theories of justice. Blake does think that his theory "might require changing the relationships *between states*, so that horizontal coercion is no longer possible," in light of observing that the "greater wealth of the more powerful nations is, itself, a source of coercive power," and effectively this may lead to "markedly similar in policy recommendations" as those suggested by critics of his theory (569). There do appear to be at least a few unresolved issues, though, that are consequential to the overall plausibility of Blake's theory.

4.7 Remaining Concerns: Ambiguity, Idealization, and Practical Guidance

One concern with the alternative characterization provided is how to make sense of statements Blake makes regarding justifications that *individuals* offer on account of justice. For example, stating that his view "accepts that the duties owed to strangers and the duties owed to fellow citizens are distinct," and that "it is not that we care more about our fellow countrymen, but that an impartial principle will give rise to distinct burdens of justification *between individuals*" who are fellow members of a coercive state system (264). Statements like this in his account undoubtedly contributed to why Blake's theory is

frequently categorized as belonging to the same class as Nagel's. Nagel's theory in some sense *does* belong to this class of theory, but his decision to "take a more individualistic position than Rawls does," and ultimately do so by focusing on *actual* intersubjective duties of justification (rather than under the idealized conditions of hypothetical consent), ultimately eroded the moral relevance of the state corpus (2005, 135). This is why Sangiovanni (2007) remarked that the "notion of authorship, the reference to the 'general will,' and so on, contribute, surprisingly, little to the overall success of [Nagel's] argument" (17). As a result, justice became a matter of extant reciprocal duties, much like in the case of RBI.

If Blake does intend to appeal to a form of 'justification' more similar to that of Nagel, as opposed to a notion of 'justification' that more closely refers to the actual process of *making* the state just, then his theory is likely vulnerable to several of the criticisms raised. In addition, Blake's responses on the Atlantis example would sound considerably more peculiar, and his general account of horizontal and vertical coercion would be harder to make sense of. Under the reading I discussed above, we can at least make these claims intelligible both as consistent inferences from his theory and as some type of substantive response to criticisms. The most plausible reading that occurs to me (as a matter of consistency) comes from his statement that both the right to vote and material equality "are justificatory strategies by which the legal system might be justified to individuals," and that material inequality is like a "denial of suffrage" (295). One might interpret Blake's comment, that individuals owe one another justification, as a reference to treating an unjust system as equivalent to one devised in a situation in which some agents in the original position (or another hypothetical procedure) are illicitly permitted to coerce other agents into compliance, or otherwise silence their appeals and objections. Nonetheless, this particular feature of Blake's theory is ambiguous. The interpretation presented above seems plausible, but it also speaks to the prior-noted caveat that the reconstruction I considered may incorporate changes (if so, hopefully improvements) that render the theory more resistant to criticism than as it was originally posed.

5. CONCLUSION

Of the three positions considered, an approach in line with Blake's appears to be the most successful in terms of internal consistency and responsiveness to objections raised in the critical literature, as well as in offering a possible means of defending a position similar to Rawls's in *Law of Peoples*. On this view, egalitarian principles of distribution are a consequence of the principle of autonomy being implicated by certain contextual factors of human societies. Outside of this context, material wealth may not be a primary subject of the principle's application, beyond the stipulations of absolute deprivation. Nagel and Sangiovanni appear to intend a similar claim but their appeal to a *monistic* standpoint, that incorporates material wealth as a primary means of evaluating the quality of an individual's position, serves to undermine each theory. In the broad sense, each is left with attempting to justify a result in which, from the standpoint of general individual human interest presented by each theory, some individuals in the global context are left much better or much worse off for many of the same sorts of reasons that in the domestic context would demand remediation and compensation. Nagel and Sangiovanni each argue that the domestic context introduces a special individual duty, arising out of individual sociopolitical relations that center around a state system, that accounts for the relevance of wealth disparity. However, the justifications for these duties do not appear to reliably circumscribe states (and state membership) in delimiting the application of such duties.

Furthermore, as each author acknowledges that the present world system demands *some* alteration on the basis of moral duty or perhaps justice (even if not egalitarian socioeconomic justice), this stipulation seems to invite one to wonder why we ought not go further and develop the institutions necessary for global material egalitarianism. After all, in the domestic context, each theory would impose such a requirement, and at the global context each already imposes a requirement of institutional creation and development on the basis of humanitarian and other normative requirements (such as intolerably exploitative international governance, as in the case of Nagel's criticism of the WTO). In other

words, as argued by their critics, Nagel's and Sangiovanni's accounts appear to permit individuals to be indifferent to circumstances of those outside of their society for reasons that would be impermissible domestically, without a clearly impartial procedural basis for doing so. An additional element that may factor into accusations of partiality is each theory's respective conceptions of reasonable rejectability. Nagel's and Sangiovanni's notion of hypothetical consent appears to circumscribe an individual's potential objections within his or her largely self-regarding considerations of well-being or interest. As a result, a context such as an original position takes on characteristics of an adversarial competition between individuals who may be indifferent to one another outside of duties that are procedurally imposed upon them, thereby amplifying the impression that each theory fails to accord due regard for the global poor. By incorporating three differences from the theories advanced by Nagel and Sangiovanni, an approach in line with Blake's account, such as that discussed in the previous section, may be more successful.

First, Blake's account incorporates a pluralistic conception of the interests and perspectives of individuals. Second, in grounding the theory in an individual entitlement to autonomy, the theory incorporates this pluralism in its characterization of individual interest and basis for objecting to a principle of distribution, rather than being grounded exclusively in a conception of well-being or a comparison of material wealth. In doing so, the theory is inherently sensitive to social-relational features within which an individual's life is contextualized, and may avoid having to justify what appears to be, by its own lights, a wide disparity in the treatment of individuals between global and domestic contexts. Material provisions matter, but they do so through the operation of the principle of autonomy. As Blake notes, the theory is likely to be highly demanding at the global level. However, it does not require that all individuals are subsumed under a common distributive regime. Doing so would likely not only fail to promote individual autonomy on Blake's view, but may very well antagonize it by ignoring the varied interests individuals have (as individuals, and as members of political societies) that may incidentally differentiate their relative material positions.

Third, as I suggested in the discussion of Scanlon's contractualism, the principle of autonomy may incorporate a standpoint of recognizing the value of others' interests (which may substantially differ from one's own) as part of its account of moral motivation and reasonableness in the context of hypothetical consent. If so, whether an individual may *reasonably* reject a particular result will likely depend not only a plurality of his or her self-regarding interests, but may factor in their recognition of the interests of others, and in doing take a more cooperative and less partial perspective. Perhaps more importantly, incorporating other-regarding considerations into individual standpoints entails that the relational attribute of egalitarian principles, including the *omission* of non-members from a particular system of distribution, is incorporated into the standpoint of individuals universally rather than only individuals who are members of a particular system. The result would be similar to Blake's characterization of hypothetical consent in the context of criminal law. In both cases, an individual in an *idealized* context of decision making, such as that which is intended to direct the application of a particular principle, may be said to consent (or lack basis for reasonable rejection) to something even if in a non-idealized context we imagine that he or she would carry a different preference. In other words, while an individual may be able to reasonably demand that others provide aid and avoid imposing conditions that are incompatible with individual entitlements to autonomy, that individual must also recognize the value of others (and their interests) and give this consideration appropriate weight, and this requirement may be incompatible with demanding a global principle of material egalitarianism (at least in the idealized context of seeking hypothetical consent).

However, there remains a problem that is unresolved in all three theories – the use of highly idealized models of the operation of states. Neither Nagel, nor Sangiovanni, nor Blake's theories fully account for the fact that the actual structure of global affairs is (as discussed extensively now) more complicated than an ideal system of citizens and states. Blake, for example, appears to exclude state-to-individual coercion in his model, as a consequence of his domestic theory of state agency; for example:

“outsiders, [the state] says: We do not coerce you,” on the subject of border controls (287). That is, ‘horizontal’ coercion only covers interstate coercion. He might think that duties arising out of eliminating horizontal coercion, and absolute deprivation, may alleviate the matter. However, most actual states contain a network of non-governmental organizations and institutions that are employed in the provision of material goods and services within the state. Many of these organizations operate or *can* operate transnationally, and much of the current state of international law and multilateral agreements reflects this. It is not a coincidence that one of the most longstanding and consequential efforts within the UN to promote the international adoption of model laws has occurred under the auspices of the United Nations Commission on International Trade Law (UNCITRAL). Nor is it a surprise that every one of the authors discussed here made either direct or oblique reference to the WTO and IMF as prime example of coercion occurring in international, transnational, and global affairs.

This is a difficult matter to ignore, because it is very much the subject of debate between ‘cosmopolitan’ or ‘globalist’ theorists and their ‘anticosmopolitan’ or ‘internationalist’ counterparts. Although I am unsure of what we will look like in terms of our conception of self, society, or global polity in the future, I estimate that humans will continue to think about how to solve problems and how to effect change through the use of many of the same strategies as in the past, as they appear to reflect enduring facts about our perception and psychology. It seems to me that claims about what is possible in developing a society, how and why people are motivated, and what others are thinking, entail claims about what the world is actually like. Our intuitions (insofar as they appear in our theories) reflect our experience, but in addition many of the statements that appear in the literature are disciplinary tropes that are themselves a reflection of the social world and our perception of it. However, the increasingly devastating effects of climate change and pollution, and complexity in managing finite resources that are vitally needed, and in some cases entangled in a network of individual and institutional interests or multilateral compacts, blur the physical and relational boundaries of state power, influence, and interest. In

other words, the metaphor of the state as an agent, or as a personification of an ideal agent, may be very difficult to maintain as the world continues to change in ways that will likely challenge our long-guarded sense of everyday agency and independence.

Settling on any of the positions discussed would entail a radical restructuring of many societies. Insofar as this is the case, I think that it is vital that we get things right, especially given the importance of global justice in the modern world. Political philosophy is tasked with addressing questions that the answers to which, if acted upon, would be profoundly consequential to other beings (human or otherwise) in ways that we should hope will improve the state of the world. Caring about what happens to people, whether or not they are fellow citizens, is not aberrant nor should it be characterized as an encumbrance. In recognizing this, we must be careful about equating 'fairness,' 'equality,' and 'impartiality' with an austere sense of the value of our own or others humanity on the basis of a quantified or qualified measure of success. However, the precise approach by which I believe we might attempt to resolve the difficulties presented, in attempting to characterize and develop theories surrounding complex systems in the context of political philosophy, will have to wait for a future discussion.

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