

The Boundary in Space: International Justice

I WHY IS THERE A PROBLEM?

In various forms an example that originated with Milton Friedman has been used to illustrate the problem of how far any one society ought to take account of the interests of another society. My own formulation of the example is as follows. Imagine an island in which the land is rather rocky and infertile, and the climate is harsh, so that the average standard of living is low. But the inhabitants don't complain, at least not much. They are under the impression that they are the only human beings in the world, so they do not know any better.

But one day one of their fishing vessels gets blown off course and finishes up sheltering in the bay of some other island the existence of which had hitherto been unknown to them. And it turns out that this island is inhabited by other human beings who make the crew of the vessel very welcome. The visitors soon realise that the standard of living in this island is far higher than in their own. And they can see that this is the result of more fertile land, a better climate and an abundance of natural assets including lots of tasty edible species, such as fish and fowl.

But the day comes when, like Odysseus, they decide that they must forsake this delightful and unexpected holiday and return home. When they get back they tell everybody about this other island where the land is more fertile, the climate is better, and there is a greater abundance of various natural resources and edible species. (Somehow or other they forgot to mention that the women were also more beautiful.)

This aroused everybody's indignation. 'It isn't fair!' the people cried. And before long a new populist political party dedicated to the single issue of rectifying this alleged injustice had swept to power and started preparations to invade and occupy the other island. This was a pity because the people in the other island had just started debating whether some theory of justice, or the demands of 'sympathy', required that they start sending aid to the poorer island, the existence of which had hitherto been unknown to them. Unfortunately their philosophers were unable to reach rapid agreement on this issue. If they had done so in time they might have been able to help the poorer island before the latter embarked on a disastrous policy.

What took them so long? The answer is that their philosophers faced a new and very complex problem to which only some politicians believe there are simple answers. But, as philosophers know better than anybody, simple answers to complex problems are always wrong. They thought up different plausible but competing theories of international justice and their corresponding obligations to the other island. Even today, many years later, our philosophers have still not yet reached full agreement on which theory – if any – is the best.

And this is still a great pity. For there is even more need for it now. In the past the problem of international justice had fewer ramifications than it does today. Historically, justice in international relations had been confined largely to the problem of peace and war between nations, or respect for treaties or – in earlier times – for informal understandings between often far-flung traders and merchants engaged in international trade. It ignored distributive justice. The idea that this might apply between countries as well as between people within a country is relatively new. There are two main reasons for this.

One is the increasing interdependence of different economies, which had been proceeding for centuries, of course, but at a slower pace. The acceleration of this process has led to much controversy about the harmful effects of globalisation on some countries, or groups within countries. This includes the problem of 'unfair' trade, by which is often meant trade that enables richer countries to buy goods produced very cheaply in countries where the minimum age of employees, wages and general working and living conditions are not up to the standards that people in the richer countries would regard as acceptable.

The other reason for our increasing concern with international justice is that we are now much better informed about the appalling inequalities

between peoples and nations, so we ask ourselves whether we have any obligations to help the poor wherever they may be, and on what principles such obligations may be founded.

The implications of this for welfare economics are clear. For welfare economics only tells us – at best – how to maximise the economic welfare of some given society. But it does not tell us exactly where we ought to draw the boundaries – in space or in time – of the society whose welfare we are trying to maximise. This chapter will focus on the boundary in *space* – that is, whether the society whose economic welfare one is trying to promote can be restricted to the citizens of any particular country. The next chapter will focus on the boundary in *time*, which has become increasingly important now that we are faced with the threat of climate change that will have consequences over generations.

In this chapter I shall attempt merely to give the flavour of the main theories of ‘global justice’. In the Annex to this chapter I shall turn to the practical policy question of how the burden of combating man-made climate change ought to be shared out equitably among countries. International cooperative action is also required to tackle this and other global environmental problems, so that we may ask what would be ‘just’ terms for ensuring this cooperation.

In the interests of simplification and at the cost of ignoring many varieties between – and within – them, I shall adopt a threefold classification of the main current conceptions of justice between sovereign states, or ‘global justice’. These are (i) ‘*communitarianism*’; (ii) a ‘political’ – or ‘*contractarian*’ – conception of justice and (iii) a ‘*cosmopolitan*’ conception of justice.

2 COMMUNITARIANISM

Although there is a very wide range of different conceptions of communitarianism, they have in common the view that there are no principles of justice that are universal in the sense that they ought to be followed in all societies. In other words, there are no principles of justice that reasonable people ought to adopt irrespective of their histories, religions, languages or social structures. The appropriate principles of justice are specific to different communities and have to be located within some community in which people share certain traditions and have developed their own particular moral norms. To some extent communitarianism can be seen as a reaction against an impression given by Rawls’s *A Theory of Justice*, in

1971 which could be read as implying that the principles of justice that would emerge from his original position had some universal validity and ought to be adopted by *any* society. Rawls's apparently logical deductions of the way that rational individuals in 'the original position' would arrive at some mutually satisfactory contract defining the rights and obligations that should be adopted in any society, certainly seemed to leave no room for differences in the principles of justice that would be adopted in different societies. But in later publications Rawls explained that he made no such claim.

Naturally, communitarians differ among themselves on many points. According to Adam Swift 'community' is very much in fashion. It is warm, caring and nobody knows what it means. And he goes on to say that 'communitarianism' really is unusually ill-defined, even by the standards of other 'isms'.¹ But, on the whole, communitarians believe that within specific societies, language, history and culture come together closely enough to create some sort of collective understanding of what sort of principles of justice ought to regulate the rights and duties of the citizens of that society. Thus they believe that the idea of distributive justice presupposes a bounded world of a political community and the idea of *international* justice is based on the illusion that there exist principles that are shared between different nations and cultures.

3 'CONTRACTARIANISM' AND THE 'POLITICAL' CONCEPTION OF JUSTICE

Although communitarianism is concerned mainly with the variation between societies in legitimate conceptions of 'just' relationships between members of any given society, it has some affinity with the much older tradition of '*contractarianism*'. This goes back a few centuries and is associated most notably with Hobbes, Locke and Rousseau. It is the view that the principles of justice are the principles that govern the rights and corresponding duties in a community, or society, that is organised in such a way that these rights and duties can be enforced.

This raises one of the central issues in theories of justice, namely the relationship between justice and authority. More explicitly, this is the issue of whether the concept of justice has any relevance outside some society in which there is an authority that is able to enforce certain rules of behaviour.

The nature and origins of the contract differ significantly from one contractarian philosopher to another. But they share a common element, namely that there is some sort of contract among people that justifies, or requires, or has led to, the establishment and toleration of some authority. This authority has to ensure the protection of, and respect for, their rights – that is, to enforce the contract. As long as the requisite international authority did not exist there would still be no room for ‘global justice’. Thus the ‘political’ contractarian conception of justice rules out the applicability of the concept of justice *between* sovereign states, except insofar as they have surrendered important specific features of their sovereignty to some authority, of which the European Union is perhaps the most obvious example.

The contractarian conception of justice has had its most important modern expression in John Rawls’s theory of justice, some elements of which have been discussed in [Chapter 15](#), in connection with distributive justice *within* any society. Its international implication is that since Rawls believed that justice is the first virtue of social institutions it presupposes a society. Hence, he excluded distributive justice – and hence the ‘difference principle’ – from his theory of *international* justice because he did not believe that there was an international society that had sufficient institutions and powers for it to make sense to talk about *distributive* justice between states. After all, while there may be enough of an international society to have promoted some rules of international behaviour – for example, outlawing aggression, enforcing treaties, and so on – there may not be enough of an international society to provide the basis for any rules of *international distributive* justice.

In short, Rawls begins with the classical contractarian notion that society is a cooperative venture for mutual advantage among members of a given society. Indeed, Rawls’s 1971 treatment of international justice was rather cursory. He thought that ‘the principles for the law of nations may require different principles arrived at in a somewhat different way. I shall be satisfied if it is possible to formulate a reasonable conception of justice for the basic structure of society conceived for the time being as a *closed system isolated from other societies*’ (Rawls, 1971, p. 8; our italics). In a series of lectures in Oxford (1993), he returned to the principles of international justice and made a far more detailed study of what such principles should consist of. In his 1993 *Political Liberalism* Rawls presented his theory of justice ‘as culture and sphere-specific’. He still used the procedural device of an original position, in which notional delegates

of democratic ‘peoples’ would agree on principles of international justice behind a ‘veil of ignorance’.

But although he then articulated the basis for his conclusions in much greater detail, they did not change substantially. In his last published views on the matter in 2001 he repeated that he was ‘... concerned for the most part with the nature and content of justice for a well-ordered society’ and that ‘justice as fairness is a political conception of justice for the special case of the basic structure of a modern democratic society’.² In other words, it did not apply between one society and another.

4 COSMOPOLITANISM

4.1 *International Distributive Justice and ‘Impartiality’*

Since nation states are being increasingly forced to cooperate in a number of spheres of activity it is arguable that the world of nation states increasingly resembles the Rawlsian depiction of a society in which principles of justice lay down some rules that enable the members to cooperate in order to maximise their collective welfare. These principles include some rules for sharing out the fruits of this cooperation.

But although increased relations between countries may have provided the necessary conditions for the emergence of principles of global justice, in the absence of some international authority they fail to provide the sufficient conditions. Progress in this direction has, of course, been made. The development of regional institutions, of which the European Union is an outstanding example, and the proliferation of international institutions, such as the International Monetary Fund, the World Trade Organisation or the International Labour Office, represent steps along the road to international authority in certain specific areas.

While such developments are welcome they do not help answer our central question ‘how ought we incorporate distributive concerns in our conception of the society whose economic welfare we seek to maximise?’ Yet, at the same time, we are now much more aware of the appalling inequalities in welfare throughout the world and of the dire poverty suffered by billions of people. For example, in 2007 the average per capita income of the seventeen richest countries in the world was about thirty times as high as the average per capita income of the eleven poorest countries, which was less than \$3 per day.³ And if one looks at direct indicators of major components of human well-being, such as average

expectation of life, or rates of malnutrition, and so on, the comparison is just as disturbing. For example, Beitz draws attention to the fact that the infant mortality rate in the 'low-income countries' (as defined by the World Bank) is about 20 times as great as in the 'high-income countries'.⁴ Why agonise about inequalities within rich countries, where they pale by comparison with those that can be found between poor countries and rich countries today? Does this not amount to 'straining at a gnat while swallowing a camel?'

Increased awareness of the conditions in the 'Third World' stimulated the emergence of '*cosmopolitanism*', the two central notions of which are that (i) individuals should be the focus of our concern, not states or races or any other grouping, and (ii) this concern ought to apply to individuals all over the world, not just those within any particular national boundary. Thus there is a moral obligation to apply to everybody in the world the same principles of *moral equivalence* and *impartiality* that are central to most theories of justice within any society.

What exactly these consist of is a matter of legitimate controversy. The cosmopolitan view is that citizenship is just as much an irrelevant contingency of a person's existence as is, for example, race, religion or sex. Cosmopolitans would thus extend the notion of impartiality to our dealings with everybody in the world.

This view seems to be embodied in 'The Preamble to the United Nations Universal Declaration of Human Rights', which states that 'Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom...'. Following this preamble Article 2 of the document begins by saying that 'Everyone is entitled to all the rights and freedoms set forth in this Declaration...'. The specific rights are then set out in some detail in the subsequent Articles. But a 'right' imposes an obligation on somebody or on some institution. So the universal rights set out in this Declaration impose an obligation on everybody in the world to respect these rights for all individuals, whatever their nationality or location. According to the Declaration the unit of allegiance and concern can no longer be one's own nation but has to encompass the whole of humanity.

Some critics of such declarations would share de Jasay's view that 'no notice was taken of the fact that these putative rights had no practical effect beyond raising false expectations if the corresponding obligations to

provide food, shelter, education and employment were not imposed on those able to provide them' (de Jasay, A., 2010a, p. 8). Furthermore, it is far from clear how these international proclamations on the rights of individuals can be made compatible with the widely accepted 'rights' of nations to be sovereign as regards their internal affairs.

4.2 *The Utilitarian Route to Cosmopolitanism*

Cosmopolitanism encompasses a wide range of views on the principles of justice within societies. It could include the prioritarian or egalitarian views mentioned in Chapter 15, and even be acceptable to some libertarian defenders of *laissez faire*. But perhaps the best-known school of thought that has direct relevance to cosmopolitanism is Utilitarianism. As discussed in Chapter 9, Utilitarianism attaches no *intrinsic* value to distributional considerations. Greater equality can have only *instrumental* value as a means to the maximisation of utility in the world. Thus, a utilitarian ethic implies that if some redistribution of wealth from people in rich countries to people in poor countries is likely to raise total world utility it ought to be carried out. Sacrifices for the sake of the needy that would increase total utility are morally obligatory in the utilitarian system.

Chapter 10 lists various objections that have been levelled to Utilitarianism. One is that it attaches no intrinsic and independent value to 'special obligations' (such as those represented in 'agent-relative' ethics), including those that people may have to members of their own families, communities, nations and so on.⁵ This is particularly relevant in the international context.

One leading Utilitarian philosopher, Peter Singer, defends an obligation to increase international redistribution of wealth that, in one sense, is less extreme than straight Utilitarianism but, in another sense, is more extreme. It is less extreme in that instead of advocating redistribution aimed at maximising total world *utility* he concentrates on relief of *poverty*, which he hopes will also appeal to non-utilitarians, especially prioritarrians. As mentioned in Chapter 10 this view resembles Karl Popper's 'negative Utilitarianism', according to which we should minimise suffering rather than maximise happiness. But in one respect Singer's concept of Utilitarianism is more extreme in that he condemns a failure to do everything in our power to relieve poverty as morally totally unacceptable.

In his *Practical Ethics*, Singer postulated the following two premises: (i) If we can prevent something 'bad' without sacrificing anything of

comparable significance, we are morally obliged to do so, and (ii) absolute poverty is 'bad', and this may be defined (following the definition adopted by Robert McNamara, who was the President of the World Bank) as 'a condition of life so characterized by malnutrition, illiteracy, diseases, squalid surroundings, high infant mortality and low life expectancy as to be beneath any reasonable definition of human decency'.⁶

From these two premises it follows that if, for example, one is faced with a choice between spending money on saving lives of poor people anywhere in the world or spending it on something that cannot be judged to be of 'comparable significance' one is morally obliged to choose the former. Singer writes that 'If, then, allowing someone to die is not intrinsically different from killing someone, it would seem that we are all murderers'.⁷

This is, of course, a big 'if'. It raises the age-old question of the relative moral status of acts of omission and acts of commission. Is it just as immoral to fail to send money to Oxfam as to send poor people a parcel containing poisoned food? Most people would think not. Of course one can easily dream up all sorts of hypothetical situations where the distinction is not so sharp. For example, is someone who deliberately fails to give a life-saving medicine to his parent from whom he hopes to obtain a large inheritance guilty of a sin of omission or commission?

But many people would find that wherever we draw the line between sins of commission and sins of omission, the whole utilitarian ethic, pushed to its extreme, is simply far too demanding and wildly utopian. For a worldwide redistribution on utilitarian grounds designed to maximise world utility would, of course, require enormous sacrifices by the wealthier countries which would not be forthcoming by any stretch of the imagination. It would require moral heroism and demand that we all be saints. And the consequences of it would be totally unpredictable and possibly catastrophic.

The problem is that most – and possibly all – ethical rules leave scope for conflicting values, and none claims to cover all possible contingencies. For example, one of Kant's 'categorical imperatives' is that one must always tell the truth, whatever the circumstances. Simon Blackburn gives the classic example of 'lying to the mad axeman who asks you where your children are sleeping' where the normal reaction to the Kantian injunction against lying in any circumstances would be 'To heck with that. If *that's* what morality demands then I'm opting out'.⁸ Even in less dramatic circumstances, one might be forgiven for not telling a friend that his

work is rubbish, his clothes show very poor taste, and he is ugly. Instead most people would go along with the views of the hero/antihero of Albert Camus's novel 'The Fall' in which he says 'Above all, don't believe your friends when they ask you to be sincere with them. All they really want is that you will confirm them in the good idea that they have of themselves If, then, you find yourself in this situation, don't hesitate: promise to tell the truth and lie as much as possible'.⁹

A far more general conflict of values could be said to apply to Singer's particular application of Utilitarianism to the problem of international distributive justice. Joshi and Skidelsky point out that Singer's utilitarian approach completely ignores the claims and moral obligations arising out of 'special relationships', such as those of family, community or nation.¹⁰

And, as with other moral dilemmas that we have discussed earlier, much also depends on the facts. Vijay Joshi and Robert Skidelsky also question Singer's assumption that greater aid will reach the poor in poor countries and will promote 'reliant self-development'. They argue that, since an increasing proportion of the world's poor is located in failed states in sub-Saharan Africa, where bad governance is the chief obstacle to the relief of poverty, Singer's proposals may not promote the well-being of the poorest members of the global community. It is also well-known that some transfers to poor countries can be counterproductive by undermining the efforts of their own producers to increase output.¹¹

5 OTHER THEORIES OF INTERNATIONAL DISTRIBUTIVE JUSTICE

During the last two or three decades theories of international distributive justice have emerged that, up to a point, are intermediate between traditional 'political' or 'contractarian' theories, on the one hand, and outright 'cosmopolitanism', on the other. Because of the dominating position of Rawls in the analysis of theories of justice much of this has taken the form of an attempt to extend Rawlsian theory in a cosmopolitan direction. This has not always taken the form of an abandonment of Rawls' contractarian framework. Instead, it sometimes takes the form of an attempt to derive different conclusions as to what sort of principles of justice would emerge if the participants in the original position took account of the vast disparities in incomes between countries. For Rawls's entire scheme of establishing the principles of distributive justice applies to society as a 'cooperative venture for mutual advantage', and the modern globalised

world faces serious global problems – economic and environmental – which call for cooperative solutions on a global scale.

Therefore, in the same way that the need for – and scope for – social cooperation provides a basis for *domestic* distributive justice, so international cooperation should provide a basis for *global* distributive justice. In other words, perhaps one should apply Rawls's procedural device of the 'original position' as a framework for investigating how, in fact, the participants in such a position would have wanted to adopt principles that would nullify the contingencies of an unequal distribution of natural assets internationally. Such principles could be designed both to ensure a fair distribution of the fruits of cooperation between countries and also remedy unacceptable inequalities caused by the endowments with which countries start and hence the varying degrees to which they are able to contribute to overall welfare.

Political philosophers, such as the late Brian Barry, Charles Beitz and Thomas Pogge, start from the fact that being born in a rich country or a poor country is as much a matter of luck as being born with talent or in desirable home circumstances, and so on. Hence, the unequal international distribution of resources is just as arbitrary from a moral point of view as is the distribution of talents.

Imagine the participants in an 'original' position deciding whether they would prefer (i) to be born in a world, where the probability of being born in a country with widespread malnutrition and high infant mortality is roughly as great as that of being born in a rich country, or (ii) to be born in a world in which the average income level was lower but in which the gap between the rich and the poor nations was also lower thanks to international redistribution? Up to a point depending on the precise numbers involved, if they were risk-averse and rational – as assumed in the Rawlsian theory – they might choose the second. It follows that in some 'original position' they might opt for some rules for international redistribution.

Following this line of argument, participants in an '*international* original position' should take account of the fact that the situation of the worst-off people in the world will be maximised not through the application of the difference principle *within* countries but through its global application. '... from the standpoint of the "original position" the question of distribution between societies dwarfs into relative insignificance any question of distribution within societies. There is no conceivable internal redistribution of income that would make a noticeable

improvement to the nutrition of the worst-fed in India or resourceless African states like Dahomey, Niger or Upper Volta.¹²

Of course, in the real world the most binding limit on international aid has been the reluctance of governments in democratic donor countries to sacrifice other demands by their electorates. And in recipient countries political systems frequently prevent citizens from obtaining corresponding benefits from such aid as their governments may obtain. This weakens the claim of many countries for more respect for their 'rights'. As Stanley Hoffman points out

... states are not divinities, their rights are rooted in the presumption of a fit between them and their people; and this does put a kind of damper on the demands of the Third World governments for absolute sovereignty, for impermeable state rights. We may feel that we have a duty to share some of our wealth with them, but only if that wealth is used toward justice for those communities of people. This also means that equity claims presented by Third World states are in a sense conditional on their doing something for their people.¹³

An independent judiciary Hoffman adds that although 'it may sound like blackmail, but in blackmail cases one of the actors is doing something illegitimate or selfish' (*op.cit.*, p. 181). It is significant, for example, that candidates to join the European Union and hence benefit from the economic assistance that they could then expect are obliged to demonstrate that they satisfy certain political conditions, such as the effective rule of law, and independent judiciary, and other criteria of a functioning and effective democracy before their membership can be seriously negotiated.

6 CONCLUSIONS

In [Chapter 15](#) I characterised the Rawlsian conception of justice as being a set of principles according to which a given political society allocates rights and obligations among members of that society that are accepted by them as being, on the whole, a 'fair' way of sharing out the fruits of their mutual collaboration in promoting the well-being of that society. These principles provide a framework that enables people to resolve their conflicting interests peacefully by reference to the accepted rights and obligations of that society. An authority is needed (i) to fulfil the function of being the body that interprets the rights and obligations and so can adjudicate differences

of opinion about them, and (ii) where necessary, to enforce their observance and punish violations.

Much of the debate about different conceptions of global justice that we have very briefly sketched out earlier is about whether some corresponding rights and obligations can be found that apply on an international scale between different sovereign states. Should the rights and obligations to which *states* can appeal in their relationships with each other be approached in the same manner as between *individuals* within any state? And should all individuals across the world be given the same rights by everybody else as are usually embodied in the principles of justice that govern the allocation of rights and obligations within any state? There are reasons to believe that there is no clear answer to either of these questions.

There are two main reasons for this. First, insofar as the chief function of principles of justice is to enable people to settle their conflicts without resort to violence and hence to help promote everybody's self-interest, the need for such principles depends on the probability that refusal to abide by them will, in fact, lead to violence or gross failure to promote one's interests. But this probability is not an all-or-nothing matter. It is not a bipolar situation in which probability is either zero or unity. It will vary internationally from one common global problem to another. It is unlikely, for example, that failure to adhere to some internationally agreed conventions governing fishing rights, or respect for some international trade agreements, will lead to war.

Second, individuals are dealing with each other in thousands of different ways all the time. So the scope for disagreements as to what is 'fair' in their dealings – ranging from when one's neighbour can make a noise with his lawn mower to when one can make a big profit by misleading one's clients about the safety of the bonds one is selling to them – is unlimited. The need for very detailed rules governing what is fair and what is not fair is correspondingly almost unlimited. And since it is virtually impossible for the appropriate rules and obligations to be drawn up in such a way as to cover every conceivable contingency, it is inevitable that there should be some authority to which one can appeal for judgement and, if necessary, for retribution. By contrast, the relations between sovereign states are far less common and varied.

Of course, they are becoming more common and more varied, so one can hope that sovereign states will respect Hume's '... three fundamental rules of justice, the stability of possession, its transference by consent, and

the performance of promises'.¹⁴ But, for the two reasons given earlier, one should not expect the rules governing relations between sovereign states to be as detailed and varied as the rules pertaining to individuals within any particular state. According to Hume '*... there is a system of morals calculated for princes, much more free than that which ought to govern private persons.*'¹⁵ And he went on to add that '*... though the intercourse of different states be advantageous, and even sometimes necessary, yet it is not so necessary nor advantageous as that among individuals, without which it is utterly impossible for human nature ever to subsist.*'¹⁶

The situation is a little like the rules governing any particular sport. It is true that the rules governing some sports are so complicated that one should never play them except accompanied by one's lawyer. But as long as they are basically 'fair' there is no need to agonise over their rationale too much and there is usually adequate scope for variation in the precise details of the rules without their giving an unfair advantage to any one class of participant. For example, if the rules governing the height of the net in tennis were to be drastically modified – say making the net a foot higher – it would give a big advantage to abnormally tall people. But fine adjustments of a fraction of an inch are not likely to cause offence to anybody. Anyway, nobody is obliged to play the game. One can always take up some other sport where physique and agility do not command a premium, like chess. This kind of option is not generally so easy for somebody who does not like the rules of justice prevailing in the country in which he or she is located, since one cannot easily emigrate to another country.

Thus the answer to the question 'How far do we need a detailed theory of global justice anyway?' seems to be that (i) it is less necessary than between individuals, and (ii) it need not be so detailed, so that it does not require as exhaustive analysis of its principles as is required for the principles of justice between individuals within any political entity. But if one asks a different question, namely 'Should the society in whose welfare we are supposed to promote include the welfare of other countries?' the answer could still be 'Yes'. Even if we believe that the gross inequalities in the world are nothing to do with justice, and are simply bad luck, they still call out for remedial action. For – as pointed out earlier – in our individual behaviour we are as much influenced by instinctive sentiments of sympathy and benevolence as by reference to anybody's 'rights' as specified in any theory of justice. To take a trivial example, one may allow one's neighbour to use one's telephone or toilet if his own is out

of order without believing that he has any 'right' to do so. One would do so out of a mixture of simple benevolence and neighbourly helpfulness and fraternity. In the same way people who make charitable donations to various causes in poorer countries do not do so out of a conscious respect for some theory of justice.

Of course one cannot be confident that such sentiments and instincts suffice to ensure that certain criteria of minimum conditions of life for all human beings are satisfied. A casual glance at the state of the world suggests that this is not the case. For example, free trade has often failed to help many poor countries because the rules of international trade are biased in favour of rich countries in a way that is 'unjust'.¹⁷ And rich countries often protect, or subsidise, their own economic activities.

Thus none of the earlier reservations concerning the need for a detailed theory of international justice implies that debate over the principles of global justice is pointless. As has been emphasised at various points in this book, ethics does not provide precise answers to conflicts of moral intuitions; it clarifies the conflicts and, where appropriate, indicates what facts are relevant. The same applies to that part of ethics that is about international justice. 'Cosmopolitanism' has raised awareness of the notion of the equality of all human beings in any conception of justice. Against this, the political conception of justice highlights the reliance of most theories of justice on the existence of some sort of authority that can adjudicate between different interpretations of the rules and, where appropriate, punish those who have violated them.

And one need not adopt extreme versions of these two contrasting views. Over the course of time, international agreements and authorities to deal with various international problems gradually and slowly extend across international boundaries countries. The principles that they embody are gradually absorbed into an international system that seems to share certain very basic principles of fairness. This is certainly far from satisfying full-blooded cosmopolitanism and its ambitious requirement that individuals all over the world have to be treated with equal respect and consideration. But it does, at least, integrate them to varying degrees into the international community by applying some criteria of justice between states that probably go beyond what would be satisfied by simple reliance on Smithian 'sympathy' and that resemble some of the most basic criteria of different theories of justice within any community.

And since the rules of 'fair play' between states need not be so detailed and sophisticated as those between individuals it is likely that adequate and

effective rules will be developed over time to deal with specific global problems as they arise. As indicated in the Annex to this chapter, an equitable solution to practical problems, such as a fair allocation of the burden of combating climate change, can be identified with recourse only to certain very general and basic principles of justice that are virtuously unanimously accepted. Full agreement on the details of some totally general theory of global justice is no more likely to be reached than has been the case with theories of justice within any community, about which there has been much debate for millennia. But it can wait for a few more millennia.

7 ANNEX: HOW TO SHARE OUT EQUITABLY THE BURDEN OF COMBATING CLIMATE CHANGE¹⁸

Meanwhile, do the various theories briefly outlined earlier throw much light on the problem of how to share out the burden of measures to combat man-made climate change? The answer is ‘yes’ and ‘no’. On the one hand, unsurprisingly, none of the main theories provides an instant blueprint of the way that the burden ought to be shared out. But, on the other hand, this does not mean that we have to feel lost in some moral desert. For some of the underlying principles which are shared by virtually all theories do help arrive at what would seem to be a criterion that would meet with almost universal approval.

7.1 *Equity and Efficiency*

The Framework Convention on Climate Change agreed at the 1992 Rio de Janeiro World Environmental Conference stated that ‘... the parties should protect the climate for the benefit of present and future generations of humankind, *on the basis of equity* (my italics) and in accordance with their common but differentiated responsibilities and respective capabilities’.¹⁹ But how difficult would it be to design a method of sharing out the burden of combating man-made climate change that was equitable without unduly sacrificing economic efficiency? The answer is ‘not very’.

For example, a uniform carbon tax would lead to an efficient distribution of any reduction in emissions since every (carbon) emitter would seek to equate the tax with his marginal costs of further reductions in emissions. Hence, the marginal costs of emissions reductions would be equalised around the world. And this means that no further reduction in costs could

be achieved by switching reductions from any one particular emitter to another. It would be a least-cost method. At the same time, distributional considerations could be dealt with by a suitable distribution of the revenue from the tax. Of course, there would be numerous political and administrative problems with such a solution, but that is not the point here. The point is that the efficiency can be separated from the equity.

The same applies to the method for mitigating climate change that is becoming most widely promoted. This is the method of tradable carbon emissions permits. The basic idea of this method is that, first, some agreement is reached as to the total *global* amount of greenhouse gas emissions that is to be tolerated. Then permits to emit this total amount will be allocated amongst countries, or other agencies, according to some formula that will be agreed in the course of the negotiations. Nobody will be allowed to emit more carbon than allowed by their permits.

But the permits will be tradable, and carbon emitters will presumably buy or sell permits in the light of their own costs of reducing carbon emissions. Some countries may well find it cheaper to reduce their emissions so that they can sell some of their permits. Other countries will find it cheaper to buy permits than to reduce emissions to the amount covered by their initial allocation of permits. This trade in permits will lead to the emergence of a world price for emission permits, which will lead to equal marginal costs of emission reductions across the world in the same way as would a uniform carbon tax.²⁰

As with a uniform carbon tax this method is economically 'efficient' in the sense that costs are minimised. The equity problem then is clearly how to allocate the permits in the first place – that is, how to take away valuable and tradable assets from some countries and give them to others. Whatever the relative merits of tradable permits or a carbon tax, international discussion of policy to reduce carbon emissions has been in terms of the former method. This means that the main ethical issue is how the carbon emission permits should be distributed among countries. It is to this problem that I shall now turn.

7.2 *The Per capita Allocation of Tradable Permits*

One of the most popular criteria for sharing out carbon emission permits is that they be allocated on an equal *per capita* basis. This proposal has a long pedigree going back to an early draft of the (International) Framework Convention leading up to the 1992 Rio

‘Earth Summit’, and has since been endorsed by other authoritative bodies. For example, the 22nd Report of the (British) Royal Commission on Environmental Pollution, stated that ‘an effective, enduring and equitable climate protocol will eventually require emission quotas to be allocated to nations on a simple and equal *per capita* basis’.²¹ It is easy to see why this principle has received widespread approval. In terms of ethical principles it is a universal application of the cosmopolitan principle of moral equivalence.

The rule has sometimes been criticised on the grounds that it would encourage some countries to increase their birth rates.²² It is difficult to take this criticism seriously, since the objective of most – and probably all – poor countries, is not to raise their *total* incomes but to raise their incomes *per head*. Their governments appear to be ‘average utilitarians’, not ‘total utilitarians’, though this may come as a big surprise to some of their rulers. But this criticism of the *per capita* rule does seem to have been taken seriously in some circles, as witnessed, for example, by proposals to restrict the population count to the adult population, or some other related benchmark.²³

The justification of the *per capita* rule is not, of course, that everybody is born with an equal natural right to pollute the atmosphere. The real case for the *per capita* rule would be ‘... that each human being should have an equal right to an *as-yet unallocated*, scarce, global commons...’.²⁴ In other words, we have only recently understood that if we want to avoid climate catastrophe there is some fixed amount available of atmosphere that is not seriously contaminated by carbon molecules, or what has been called ‘carbon space’. It is in that sense that the ‘fixed’ resource, ‘clean air’, has been only recently ‘discovered’. The argument then is that everybody has an equal right to use it.

The ‘cosmopolitan’ view would be that a hitherto unappropriated natural resource belongs equally to everybody. It is true that such a cosmopolitan view of property rights does not seem to have prevailed so far in the course of human history, during which time resources – such as coal, oil, bauxite, and so on – are accepted as being the rightful property of whoever first discovers them. On the other hand, if a libertarian/Lockean view of property rights – that is, ‘first come first serve’ – were to be generally accepted it would absolve past generations from any blame for having already used up more than ‘their share’ of the scarce resource ‘carbon-free atmosphere’, for since it was not ‘scarce’ when they did so they would have had a right to use it up to their heart’s content. This has implications for the next widely promoted criterion for sharing out carbon emission permits.

7.3 *The 'Historical Debt' Argument*

Another widely discussed criterion for an equitable allocation of the burden of climate change mitigation is the so-called 'historical debt' or 'natural debt' criterion. It is difficult to see any merit in this rule. It is usually proposed quite independently of the precise mechanism – such as tradable permits – used to reduce carbon emissions, but could well be incorporated as one of the criteria for the allocation of the permits, and it is convenient to discuss it here as if it were. The basic principle behind this rule is usually stated to be simply that one ought to 'clean up one's own mess'. This principle is usually presented as if it were axiomatic. And it is true that if it were to be applied only to contemporary pollution it would not be difficult to justify it by an appeal to almost any ethical theory. For example, one could appeal to a libertarian principle that, unless suitable compensation is paid, one must not deprive other people of their property, which, in this case, would be their right to a clean atmosphere. Or it could be justified in terms of a game-theoretic penalty for defectors from some social convention.

But, for several reasons, it is difficult to see what ethical justification can be found for penalising people alive today for the 'sins' of their ancestors. First, it is doubtful how far their ancestors had actually sinned. For until the last quarter of the twentieth century polluters could not have known about the consequences of their emissions of carbon dioxide into the atmosphere.

Second, it is not always certain that the long dead polluters were, in fact, the 'ancestors' of many of the people alive today who are expected to pay to 'clean up the mess'. For example, it would be tough on Mexican immigrants to the USA to pay for the carbon emitted many decades ago by American companies who may have been exploiting their *real* ancestors back in Mexico.

Third, even if most of the ancestors of the inhabitants of rich countries could be made morally responsible for their actions, the current generation played no part in the choices their ancestors made, which seems to absolve them of moral responsibility. Collective guilt is generally believed to be ethically unacceptable.

Fourth, as Caney and others point out, the practical obstacles to any identification of the link between people alive today and those responsible for the past emissions by the people who lived decades ago in what are now advanced countries are insuperable.²⁵

And finally, if the real objective is to make rich countries bear a greater share of the costs of combating climate change there are easier ways of doing so than embarking on dubious counterfactual investigations and making citizens of rich countries feel guilty about the sins of their grandfathers, let alone other people's grandfathers.

7.4 *The 'Ability to Pay' Rule*

One of these ways of making the rich bear the burden of combating climate change is simply to adopt an 'ability to pay' rule. There is a perfectly respectable and long-lived tradition in nearly all developed countries of taxing the rich more than the poor in order to pay for communal activities. This rule is widely accepted since it can be justified in terms of a wide range of egalitarian or prioritarian principles discussed in [Chapter 16](#). For example, it might be thought that *unequal* contributions to something, such as total tax revenues, is necessary in order to promote a more *equal* share of something else – such as basic needs or minimum subsistence – to which everybody is often deemed to have a 'right'. Similarly, utilitarians might defend the ability to pay criterion on the grounds that the resulting re-distribution of wealth goes some way towards increasing total utility. 'Post-Rawlsians' like Beitz, Barry, or Pogge might defend some international 'difference principle' on the grounds mentioned previously, namely that the gross inequalities *between* nations now dwarf the differences *within* most nations. Kant would say that no one who applied the categorical imperative would wish to adopt a universal law that denied help to those who 'struggle with great hardships'.²⁶

Or, as we have suggested earlier, it may be nothing to do with any *theory* but be a simple application of some instinctive human 'sympathy' or 'beneficence' or 'fraternity'. Thus, because an 'ability to pay' rule can be justified by a wide range of egalitarian theories, it is a rule that enjoys widespread support. It is a criterion that has been behind taxation systems for decades in most countries; it would no doubt be welcome to poorer countries; and is far easier to apply than, say, estimates that purport to allocate 'historical responsibility'.

However, whatever criterion is used to allocate emission permits, it still leaves open the question of whether the permits ought to be given to the governments of the countries concerned or whether, instead, it might be preferable to give some, or all, to some international body that could auction the permits and use the proceeds to assist poor countries reduce the growth of their carbon emissions, or to help the poorest people directly,

or to facilitate the monitoring of emissions. The governments of some countries could well use the proceeds from the sale of the permits to bolster their security forces or their overseas bank accounts. This raises the problem which, in this chapter, has been put at the heart of theories of international justice, namely how far one accepts the inviolability of national sovereignty.

NOTES

1. Swift, 2001:133.
2. Rawls, 2001:13–14.
3. The World Bank, 2008:Table 1, p. 334. The estimates are at ‘purchasing power parities’ and so purport to take account of intercountry differences in price levels.
4. Beitz, 1999:516.
5. However, in *Utilitarianism*, ch. 5, John Stuart Mill appears to approve of such special obligations, if only on instrumental grounds as generally conducive to greater utility.
6. Singer, 2002:229–231.
7. Singer, *ibid.*:222.
8. Blackburn, 2001:42. Of course, Kant did make it clear in *The Metaphysics of Morals* that he did not think his categorical imperative would cover every conceivable situation.
9. From Camus, 1956/1974 [my rough translation of ‘La Chute’ in 1974 Gallimard edition].
10. Joshi, and Skidelsky, 2004:19–21.
11. Joshi and Skidelsky, *ibid.*
12. Barry, 1973:130–131.
13. Hoffman, 1981:156.
14. Hume, 1739:3.2.11.2.
15. Hume, *ibid.*:3.2.11.3.
16. Hume, *ibid.*:3.2.11.4.
17. This literature relating to the consequences of unequal starting positions in international trade goes back to Balogh, 1963, and possibly much earlier, and the assertion is examined with particular reference to the problem of global justice in Kapstein, 2006:ch. 2.
18. This Annex is based on Ally and Beckerman, 2014. This article contains the statistical estimates of what the different possible distribution criteria entail for groups of countries and for some major individual countries.
19. Intergovernmental Negotiating Committee, 1991:article 3.1.

20. The equilibrium world price of permits will not, however, be the same as a uniform world carbon tax since it will depend on the way the permits are distributed and the corresponding income effects.
21. Royal Commission on Environmental Pollution, 2000:56.
22. See, for example, Jamieson, 2001:301.
23. See references to this and similar proposals in Grubb, 1995:486.
24. Grubb and Sebenius, 1992:205.
25. Caney, 2005.
26. Kant, 1964 edn:90/91. This contains Kant's fourth example of the application of the 'categorical imperative'.