



Review Paper

Cosmopolitanism and the idea of justice

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Abstract

The present article discusses Cosmopolitanism and the Idea of justice at the Global level. An attempt is made here to argue that justice at Global level is not the same as justice in the given society essentially due to the difference in the Institutional capacities of both National as well as International Organizations. The ineffectiveness of International organizations has been due to various reasons like lack of accountability and accessibility of these institutions towards the people they serve, as well as the inherent rationale of existence of these institutions is to serve the rich and wealthy nations of the world. In effect the mechanism proposed by the institutional cosmopolitanism is standing on weak ground because if inequality runs deep in the International Organizations then justice at Global level will never be a reality.

Keywords:

Introduction

The idea of justice has engrossed the Cosmopolitan thinkers since the days of Cicero¹. It was Cicero¹ who, for the first time distinguished between the duties of justice (i.e. the duty of being a human and, to help anyone in desperate times) and duties of material aid (to help someone with money and other resources). Duties of material aid, for him, needs classification on the basis of the attachment with the person, on the contrary duties of justice treats everyone including the foreigner equally. Cicero¹ defined the duties of justice as “not doing any harm to anyone, unless provoked by a wrongful act.” Martha Nussbaum notes that “the Ciceronian duties involve an idea of respect for humanity, of treating a human being like an end rather than means. To assault someone aggressively is to treat them as tool of one’s desire for wealth or power or pleasures...Duties of justice are fully universal, and impose strict, exception less obligations.” On the other hand the duties of material aid require us to take account of certain considerations like “human fellowship” which “will be best served if the people to whom one has the closest ties should get the most benefits.” The issue with Ciceronian idea of material aid is that “there are an infinite number of people in the world who might possibly ask us for something’ assuming grave inequalities in the World, Cicero¹ suggests that in the context of material aid “we have to draw the line at the point”.

Cicero’s¹ duties of justice and duties of material aid were not symmetrical. As far as the duties of material aid were concerned they could not be universalized, hence they were problematic, because he kept the duties of material aid exclusively for compatriots. Cicero’s¹ understanding of material aid evolves in concentric circles, where aid of resources shall be given only after considering the closeness and attachment of the person in

question, upon whom the aid is bestowed. Therefore aid shall be given in preferential order to the family members and close friends and then to compatriots. Cicero¹ limits the material aid up to the level of compatriots, and justifies it by saying that since the material resources are scarce, they should be distributed with economy and therefore limits and preference are desirable. Duties of justice, on the other hand, are universalized its limits being the humanity itself. In defining the Duties of justice Cicero¹ is influenced by the Stoics¹, who believed in the sanctity and the virtues of the human self. Following Stoics¹ Cicero¹ believed that even an alien shall be respected and protected in the troubling times, and if the duty of justice demands the sacrifice of the utmost kind, one shall not retreat from doing it.

Martha Nussbaum¹ finds the distinction between the duties of justice and the duties of material aid problematic because given by the same philosopher, the duties are asymmetrical. On the one hand the Duties of material aid put barriers of preference and on the other hand the Duties of justice cover humanity in its folds to the extent that one can sacrifice his life in order to meet his duty of justice. Nussbaum¹ argues that “with Cicero¹ and Seneca, we hold that torture is an insult to humanity; and we now go further, rejecting slavery itself. But to deny people material aid seems to us not in the same category at all. We do not feel that we are torturing or raping people when we deny them the things that they need in order to live-presumably because we don’t think that these goods are in the same class.”

The Cosmopolitan thinker of our age especially the Institutional Cosmopolitans ponder over the issue of the Duties of material aid and the redistribution of resources of the world. It has been argued by the cosmopolitan theorists that the world of today is staring in the face of grave poverty and massive inequalities of

all sorts, inequalities of wealth, life expectancy, education, access to basic amenities etc. Being the rich nations in the world, with all sorts of resources at disposal, the West, according to the Cosmopolitanism, has a duty to assist the poorest of the poor nations to overcome the poverty and related problems. Cosmopolitanism makes Global Justice the cardinal principal that should govern the rules and norms of the Duties of material aid. In the same spirit Global justice is defined in terms of the resource assistance to the poor countries by the rich countries and primarily by the international institutions like the IMF and the World Bank. It has been argued by the Institutional Cosmopolitan thinkers that since the cost of creating a poverty free environment is relatively very less, and not to mention as the moral duty of the rich and prosper nations of the World, it should be promoted as an obligation towards the humanity.

Following Stoics¹ and Kant¹, Cosmopolitan theorists consider the individual as the main concern in the moral universe. To see people suffer in grave poverty raises a moral and normative question about the obligation of rich people towards their less fortunate fellow human beings. Since the philosophical roots of cosmopolitanism goes back to the stoics¹, who had no belief in the particular attachments of the individuals, the likes of family and nationality and citizenship, these particular attachments are considered secondary. The existence of the individual and his wellbeing is the main concern. In the present context of the massive poverty, and inequalities cosmopolitanism emphasizes greatly on creating an egalitarian world order with minimal or poverty. Thomas Pogge² argues that the people in the rich countries have a negative duty to “stop imposing the existing global order and to prevent and mitigate the harms it continually causes for the world’s poorest populations.” Pogge² espouses to apply the Rawlsian notion of justice as fairness into the international realm, especially the egalitarian Difference principle. He notes that in the Rawlsian conception of justice, in a given society, the national economy is controlled by the adult members of the society with democratic process and that “justice requires citizens to aim for a national economic order that satisfies the difference principle, that is, that allows social and economic inequalities to arise only insofar as they tend to optimize the lowest socioeconomic position.” Pogge² complains that Rawls did not apply his understanding to the global realm and hence his conception is distorted.

The cosmopolitan justice argument extends the equal moral concern for all humans irrespective of their particular location in the world and it holds that “distributive principles are not to be constrained or limited by state or national boundaries”³. By the virtue of being human, all have the right to respectful life and a decent level of subsistence. Also with the inception of the Globalization, nations of the world have come in the closer, with integrated economies conditioned by the policies of the global institutions. In this context Cosmopolitans argue that after the end of cold war developed states have done little to eradicate poverty worldwide. Since two third of the world is living in poverty and the poorest of all are sustaining with less

than a dollar a day, it becomes a duty for the rich people to assist the poorest and eradicate poverty. Especially so when eradicating poverty is not an unachievable task and people across the countries have equal right to decent living. In Cosmopolitan thinking freedom from poverty and hunger should be a basic human right. In order to eradicate hunger related problems and issues of basic amenities; Global Justice argument presents various models like Pogge’s² notion of *Global Resource Tax*. The responsibility to eradicate poverty and impart justice for the cosmopolitans depends on the international institutions, like IMF, World Bank. International NGO’s, Multinational Corporations etc.

Coming to the institutional aspect of Cosmopolitanism and Justice, Institutions are an important aspect of the idea of justice itself. Justice is realized and materializes through the institutions. The democratic attributes and effective working of institutions goes a long way with the spirit of Justice. Institutions are closely related to dissemination of Justice and therefore inescapable object of consideration. The importance of institutions in a given democratic society, which we can say are institutions of the nation-state, is evident in John Rawls⁴ seminal work *Theory of Justice*. Rawls⁴ makes it clear right in the beginning that the pre requisite of justice is a society with democratic *institutions* at its foundation. He introduces Institutions as “a public system of rules, which defines offices and positions with their rights and duties, powers and immunities, and the likes. There rules specify certain forms of actions as permissible, others as forbidden; and they provide for certain penalties and defenses, and so on, when violations occur.” As noted by Pogge², Justice in Rawls’ eyes prevails when the basic structure of the society is governed by the principles of Justice i.e. the Principle of Equal Liberty and Difference Principle. Rawlsian argument will be dealt with in greater details later, it is suffice here to say that Rawlsian conception of the basic structure is in fact a cluster of the institutions of a political community. These institutions have a central role in the Justice as Fairness, as Rawls espouses it.

The discussion on the importance and role of institutions has been enriched by Amartya Sen⁵ in his recent work *Idea of Justice*. Sen⁵, in *Idea of Justice*, appeals to view justice in the broad sense of societal context. For him every society has its own norms and understandings of the conception of justice, and justice is best realized when it is viewed with from this perspective. He argues that “In contrast with *niti*, the term *nyaya* stands for a comprehensive concept of realized justice. In that line of vision, the roles of Institution’s, rules and organization, important as they are, have to be assessed in the broader and more inclusive perspective of *nyaya*”. Sen⁵ considers the *nyaya* view of justice, that is, the comprehensive view of justice to be the ideal one. *Niti*, the circumstantial view, on the other hand is the policy specific, short-term approach of justice. For Sen⁵, justice is comprised of the institutions of a *particular society*. “The central recognition here is that the realization of justice in the sense of *nyaya* is not just a matter of judging

institutions and rules, but of judging the societies themselves.” Sen⁵ expresses his doubt regarding the feasibility of Global Justice argument by saying that “Global Justice is not a viable subject for discussion, since the elaborate institutional demands needed for a just world cannot be met at the global level at this time.” Invariably the idea of justice will require the well-established institutions, like the institutions of the nation-state. Unless such institutions are not in place, the argument of justice will not be able to cover much ground. The lack of institutional aspect of global justice poses its own set of obstacles.

Cosmopolitanism on the other hand approaches Institutions by arguing that “The fact of shared institutional arrangements makes justice consideration necessary; but the existence of such arrangements is *not* (emphasis original) a pre-requisite for justice”³. Cosmopolitanism bases its understanding of the idea of justice on the Rawlsian conception of justice as fairness. Rawls⁴ understanding of the basic structure, to the cosmopolitans, is realizable at the global level in the shape of “global basic structure”³.

Institutions of Justice at National and Global level

The institutions at global level are not similar to that of the nation-state. One major difference lies with the nature of the institutions governing the domestic society as against the international institutions. Secondly, since the institutions at the international level have no accountability to those whom their policies directly affect more often than not they are left off the hook. Such a scenario makes a close look at the institutional cosmopolitanism pertinent. Institutional argument makes sense all the way more in the present context of Cosmopolitan Justice, because cosmopolitanism bases its justice argument on the global institutions, responsible to administer the relations among nation-states. A critical gaze into the institutional set up of Cosmopolitan justice is desirable here, especially in the context of the solutions it proposes to deal with the gulf of inequality in the world. At the same time, in the context of Globalization, the way in which International Institutions work and perpetuate equalities or inequalities among nation-states gives a new shade to the whole question of global justice.

The global institutions are essentially measured against the institutions of the nation-state. The institutions of the nation state have the advantage of being clearly prescribed by the constitution of the land, and regulated through the accountability to the general public. With the redressal system in place (for example the basic right to constitutional remedies) the relationship between institutions and the people is the reciprocal one. The advantage that national institutions have over the global ones stems from this very fact, that there is accountability of the institutions in place. Global institutions like Brettonwoods Institutions are primarily run by the rich states, and a number of studies have proven the fact that in place of eradicating poverty from the world they exist to protect the interests of the rich nations at the cost of the rest of the world.

Institutions have been understood in terms of the working mechanism to deliver goods and services to people. They have specified rules and regulations, with clear prescriptions of the ways in which institutions can be modified according to the changing times rendering flexibility to them. The important part of any democratic institutions is the scope of the participation of the concerned parties in its working, the possibility for them to raise their concerns. The right to participation is not limited to the present generation but encompass the future generations as well. Most importantly the effective mechanism for redressal of the grievances occurred to any party. Implicit in this definition is the assumption that the institutions have been founded on fair rules equally concerned for all. The spirit of fairness is the moving force of the redressal mechanism. In the present chapter, institutions at both levels, i.e. global and national level are to be measured against this parameter, and it is assumed, if the argument goes right, that global institutions will fail, precisely because these institutions are puppet at the hands of the few, who controls the system.

Institutional cosmopolitanism: Influence of John Rawls

Institutional Cosmopolitanism, according to Thomas Pogge⁶, “postulates certain basic principles of justice”⁶. Pogge⁶ has been one of the leading theorists engaged with Institutional Cosmopolitanism. There have been certain preconditions for the inception of Institutional cosmopolitanism. The advent of Globalization increasingly unifying the world has been one of them. Apart from it, Institutional Cosmopolitanism received its impetus from the persisting and escalating inequalities in the world’s richest few and poorest many. As a matter of fact, the data regarding the inequalities of income and poverty are astonishing². Out of a total of 6575 million human beings, 830 million are reportedly chronically undernourished, 1100 million lack access to safe water and 2600 million lack access to basic sanitation. About 2000 million lack access to essential drugs. Some 1000 million have no adequate shelter and 2000 million lack electricity. Some 799 million adults are illiterate Some 250 million children between 5 and 14 do wage work outside their household with 170.5 million of them involved in hazardous work and 8.4 million in the “unconditionally worst” forms of child labor, which involve slavery, forced or bonded labor, forced recruitment for use in armed conflict, forced prostitution or pornography, or the production or trafficking of illegal drugs. People of colour and females bear greatly disproportionate shares of these deprivations⁷. With this background in mind, Pogge⁷ has attempted to develop a global “egalitarian laws of people”, taking inspiration from John Rawls⁴ idea of Justice as fairness.

John Rawls⁴ justice as fairness has been the major source of influence for Institutional Cosmopolitanism. Rawls⁴ assumes justice to be the first virtue of the society, for him justice is done when the rights of citizens are secured and the “liberties are taken to be settled”. In order to ensure a fair notion of justice,

Rawls⁴ proposes a deliberative process whereby the adult inhabitants of a given society comes together to discuss and decide the principles of justice. This, to Rawls is the Justice as Fairness, since all the concerned people shall agree upon the principles of justice. Before venturing onto the principles of justice Rawls⁴ discuss the concept of original position. Original Position is “an initial position of equality”. It assumes coming together the members of the society in a joint act to deliberate over the principles of justice “which are to assign basic rights and duties and to determine the division of social benefits.” Rawls⁴ describe original position, as “the original position is the appropriate initial status quo which insures that the fundamental agreements reached in it are fair.” the principles chosen in the Original Position shall be binding on the institutions of the society in assigning rights and duties to the people and distributing social and economic benefits.

The principles of justice as a result of the deliberations undertaken in the Original Position, are as followed: i. “Each person is to have an equal right to the most extensive basic liberty compatible with the similar liberty for others. ii. Social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be everyone’s advantage, and (b) attached to the positions and offices open to all⁴.”

The advantage of the Rawlsian conception of justice is the systematic provisions of the principles of justice. At one end it gives the scope for people to exercise their liberty under the provisions of the first principle. On the other end, the second principle makes a systematic attempt of bridging the socio-economic disadvantages, by leaving the scope for the equality of opportunity for the inhabitants of the society.

The Global Original Position: Thomas Pogge⁸

In *Rawls and Global Justice*, Pogge⁸ argues that the idea of justice premised upon this understanding can be generalized at the global level. In order to create a global original position, Pogge⁸ ponders over the possibility of Rawlsian global position, and in turn presents his own take on the issue. According to him, Rawls position can be discussed at the two levels. First, a global position where parties are representatives of “persons of various societies”, and secondly, parties as “representatives of states”.

Pogge⁸ presents his position in contrast with the above mentioned Rawlsian conception of original position. The global original position “envisions a single, global, original position. This modification – again appealing to the thick veil of ignorance – leaves intact Rawls’ whole argument for the two principles, directing it however at our entire social world. The relevant ‘closed scheme’ is now simply taken to be the world at large⁸ the global original position- G, is an improvement over Rawls original position on various accounts, and in dealing with it Pogge⁸ makes his case for Institutional Cosmopolitanism. According to him, since societies do not exist in isolation they

are part of the multinational scheme. So there is a reason to assume that, as moral person, “they would favor a standard of justice on which all institutions are assessed by reference to the life prospects of the globally least advantaged”⁸. There is an added reason to believe that a global original position is plausible, since by the virtue of existing in the multinational scheme, national basic structure is bound to be affected by the global conditions. On the other side, Global institutional scheme, if has to succeed, it will, also, have to “engender in national societies and populations sufficient compliance with, and a basic moral allegiance to, its ground rules”⁸. For Pogge⁸, since national and global institutions co-exist, closely with each other, it makes perfect sense to assume a global original position. This is more so, because we may think that the national policies may affect only the compatriots. But national policies of one nation (developed) may hold great significance for the foreigners as well.

Evidently Rawlsian original position is problematic at the Global level and should not to be generalized universally because for first of all Rawls clearly assumes a certain society in pursuit of justice, for justice to be realized. A certain society is a pre requisite because of the institutional capabilities it posses and therefore the constitutional democratic society. Secondly, the specific institutions that Rawls has mentioned, a just constitution and the body of delegates pondering over policies and legislation. As Rawls himself mentions, the legislative body is there to serve the long term needs of those who are poor and whose representatives these delegates are. The non accountability of the international institutions will be discussed below; here it is sufficed to say that the Institutional Cosmopolitanism does not stand up to the Rawlsian understanding of the connection between justice and institutions. Further, to assume that the concept of Original position can be generalized to the global original position, not only undermines the role of the original position and its effects on the pursuit of the principles of justice, but the global original position, yet again brings out the fuzziness of cosmopolitanism to the surface.

The original position, in the Rawlsian sense, means the coming together of the people to decide upon the conditions of agreement on the principles of justice. Though the veil of ignorance is in place, yet it is a clear fact that these people are aware that they share a common system, with equally concerned, accountable and equally binding on all. The assumption, thus, is of coming together of people of a certain society to ponder over the creation of just principles of the distribution of resources and progress of all, the demands of justice itself. The global original position does not take into account, the fact that the Rawlsian model depends on the background conditions of a certain political society for its effectiveness.

The global original position undermines the nation-state and its territorial sovereignty. As a matter of fact, Institutional

cosmopolitanism assumes a fully worked out institutional apparatus at various sub-state and supra-state levels. Pogge⁶ believes that the dispersal is important for two-fold reasons. Firstly, sovereignty is not an exclusive matter of the state, but a federal regime spreads its decision making power to the sub-state units. And secondly, there is a need to take away the decision-making power from the states, in the wake of the issues concerning the world at large. The important issues like peace and security, Global Economic Justice, ecology requires a global response. Therefore the power to make decisions shall be transferred to International bodies.

However the peculiar characteristic of national institutions is their physicality and accessible nature. Global Institutions clearly lacks the physical accountability of a given representative democratic system. In the case of National Institutions political power is reciprocal and effective only because it gets direct feedback from the given subjects. In that sense effectiveness of institutions is dependent on a given system of accountability and accessibility. How public policies are formulated and major decisions that governments take carries the influence of public opinion. For example in India evolution of a number of institutions beyond their constitutional mandate has been due to the active feedback from the civil society and the proactive role taken by the authorities running them⁹. Also the constitutional mechanism of elections in a democratic society forces the political leadership to be sensitive towards the demands of the populace. Such reciprocal ecosystem is lacking at the World Level. It will not be an overstatement to say that without the effective hard bargaining and feedback between the rulers and the rules at the global level global institutions will only be some high sounding words and nothing more. For example, United Nations is a closest example of the Global institutions we have and time and again it has been argued that UN is nothing but a paper tiger and highly ineffective with regard to ensuring even the most basic of the human entitlements. The issues that mar effective working of the UN range from internal politics to lack of accountability to highly asymmetrical power sharing within UN Itself. At this point in time World is grappling with climate change, refugee problem, high levels of malnutrition and poverty etc. Yet there is no consensus among the member states as to how to deal with such issues. In effect, United Nations has been rendered ineffective¹⁰.

Conclusion

In conclusion, it can be said that with regard to Cosmopolitanism and the Idea of Justice, unless there are viable and more importantly accountable legal institutions at the world

level, the idea of global citizenship and international equality will remain a far cry. It has to be recognized that inequality is a stark reality and to bring about the minimum level of equality among the richest and the poorest of the world need not only philosophical exposition but real will and effective mechanisms which are not ruled by the petty interests. As against the cosmopolitan global institutions national institutions prove to be more effective. The reason for the effectiveness of the national institutions lies in their accountability, physical presence and the awareness among the populace of their existence. Hence national institutions present benchmark for the global institutions when it comes to sheer effectiveness of institutions as well as efficacy of idea of justice at the international level.

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