

Three Theories of International Justice

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This essay outlines three theories of international justice. The first, argued by Habermas, focuses on the establishment of a global charter. The second addresses Pogge's theory of global redistributive justice. The third is an argument made by Kokaz for the extension of Rawls's Law of Peoples and the possibility of a world state. This paper will then posit that although these three authors have different bases for their arguments, they come to a similar conclusion; the establishment of some form of global constitutional order is necessary to bring about egalitarian global redistribution.

Habermas's argument for international justice focuses on a global constitution. It should be made clear that this does not require, nor encourage, the formation of a world state: "The liberal type of constitution provides a conceptual frame for a politically world society without a world government." [1] A liberal constitution, he argues, is not created to produce new political authority; it is created to restrict already existing political authority. [2] Therefore, the constitution will not result in a state. Instead, it, "takes the institutional shape of a *world organization* that has the capacity to act in well-defined fields without itself assuming the character of a state." [3] The direct duties of this supranational organization would be limited to protecting human rights and maintaining international peace. The protection of these two goals would be realized through the use of sanctions, as well as force when deemed absolutely necessary.

Habermas provides a number of justifications for a global constitution. First, he claims that the international charter requires more of a legal, rather than a political, justification. Therefore, "this practice can be expected to receive due recognition if...it abides by just those principles and procedures that reflect the result of long-term democratic learning processes." [4] The constitution will be justified by the very fact that it is pursuing just goals in a manner acceptable to the global public sphere. He then addresses the problem of whether this supranational entity should be justified through cosmopolitan individuals or already existing nation-states. He believes legitimacy should be drawn from both: "Any conceptualization of a juridification of world politics must take as its starting point individuals *and states* as the two categories of *founding subjects of a world constitution*." [5] The General Assembly of the international organization will be composed of state delegates and delegates representing cosmopolitan citizens. In this way, the already well established legitimacy of nation-states will be respected while their interests are balanced against cosmopolitan goals. The creation of an international constitution based on liberal principles and endowed with the protection of human rights and international security will, according to Habermas, suffice in ensuring global justice.

Pogge, unlike Habermas, focuses on global redistributive justice. The following summarizes his argument well:

The issue of distributive justice is not how to distribute a given pool of resources or how to improve upon a given distribution but, rather, how to choose or design the economic ground rules, which regulate property, cooperation, and exchange and thereby condition production and distribution. [6]

He argues that the current unequal distribution of wealth in the world is due to unfair international institutions. Therefore, our participation in and failure to change these institutions is unjust. To achieve justice, international sovereignty must be dispersed vertically away from nation-states. With regards to global redistribution, this requires an upward dispersal of sovereignty to the international level. One possible institution would be a global tax on natural resources which would be redistributed to the poorest countries. By creating a just international framework within which state economics function, equal distribution on a global scale can be realized.

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Along with Habermas, Kokaz also attempts to establish international justice through an international constitutional order. In the first section of her paper, she extends Rawls's conception of an international constitution so that it includes measures for ensuring just international organizations. She argues that international organizations are now prominent actors in international relations, but they need to be legitimized in a different way than states. Her solution to this problem is, "a civic conception of global justice." [7] To summarize, it acknowledges the asymmetry between domestic and international justice, with less stringent principles of justice for international inequalities than domestic ones. [8] She has two requirements that must be met in order for an institution to be justified: There must be *mutual benefit* for the parties involved and all parties must *consent* to the restrictions and rules of the international organization. However, due to the vast inequalities already existing, these two requirements would not be sufficient to guarantee a just international society. Therefore, Kokaz introduces the principle of reciprocity: "A practice will strike the parties as conforming to the notion of reciprocity if none feels that, by participating in it, he or any of the others are taken advantage of or forced to give in to claims which they do not accept as legitimate." [9] As long as all parties involved do not feel as though they, or any other country, is being taken advantage of, the institution is just. Therefore, "distributive inequalities that may result from cooperative practices are justified... as long as the rules of the practice are just." [10] In this way Kokaz is seen as focusing more on an international legal system and less on distributive justice.

In the second part of her paper, Kokaz takes Rawls to what she believes is his work's logical conclusion: the possibility of a world state. She does this by refuting Kant's two arguments against an international state, which Rawls previously accepted. First, she defeats the idea that a world state could only be brought about by violence. Under the Law of Peoples, no country is allowed to use violence, except in self defence. Therefore, the option of violent world takeover is removed, and the only remaining option is a world state brought about through consent. Kant's second argument posits that a global state would be too large for one government to be able to rule it effectively. However, the United States and Canada are both huge territories that are run effectively through their state or provincial federalist setups. A world state would be crafted similarly, obviously with a much larger scope and additional levels of governance. By refuting Kant's two theoretical arguments against a world state, Kokaz is successful in proving that a world state is at least feasible, if not desirable.

These three authors all come to a similar conclusion: Arguments for global justice should focus on the establishment of a global constitutional order simply because this is the best means of achieving egalitarian global redistribution. Once Kokaz is convinced that a world state is feasible, she comes to the conclusion that it is also desirable: "The primary grounds for my own preference for a world state concern the thicker egalitarian commitments that citizenship entails." [11] Recall that the Law of Peoples requires a distinction between domestic and international redistributive justice. However, if there was only one global state, the word inter-national would become obsolete and only the more stringent, domestic redistributive justice would remain. Although Kokaz is working within, and trying to create, theories on international law, it is clear that a main objective in pursuing these theories is to increase global redistributive justice.

The same can be said of Habermas. Within his theory, redistributive justice falls outside the duties of the supranational and is left to interactions on the transnational level, composed of regional powers such as an ideal European or African Union. Even still, "the cosmopolitan constitution would prohibit the power-driven compromise formation between unequal partners from violating certain normative parameters set by the Charter." [12] Interactions would still be characterized by power politics, but they would now be taking place within a just economic framework laid down by the supranational charter. Unlike Kokaz, this does not take the form of a global state. This discrepancy, however, does not detract from the observation that they both are arguing for some sort of global constitutional law because it will decrease global inequality. This paper is by no means arguing that distributive justice is the focus of Habermas's writings; it only argues that an end result of his focus, an international charter, would result in improved global equality.

Pogge takes distributive justice as his focus yet still arrives at the solution of international institutions. Pogge argues for a dispersal of sovereignty upwards to the international level in order to solve the problem of global redistribution. As quoted earlier, we must, "design economic ground rules...and thereby condition production and redistribution." [13] This draws close parallels to the global economic framework that Habermas's constitution would lay down. Pogge

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also posits that issues of human rights and international security should be transferred from individual states' responsibilities to the responsibility of an international body: These goals are the two objectives of Habermas's global constitution. These two seemingly opposed theories have a number of similarities that bring them to essentially the same conclusion. Although Pogge's theory would probably enforce much stricter redistributive policies, it still relies on the creation of a legal international institution such as a global constitution.

A theory for global justice should not focus exclusively on either the establishment of a global constitutional order or on egalitarian global redistribution. Instead, it should appreciate the close relationship between them and realize that establishing a global constitution will bring about increased global equality.

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[1]Jurgen Habermas, "A Political Construction for the Pluralist World Society?," in *Journal of Chinese Philosophy* 34.3 (2007): 333.

[2] *Ibid*, 332.

[3] Jurgen Habermas, "The Constitutionalization of International Law and the Legitimation Problems of a Constitution for World Society," in *Constellations* 15.4(2008): 445.

[4] Habermas, "A Political Construction for the Pluralist World Society?," 338.

[5] *Ibid*, "The Constitutionalization of International Law and the Legitimation Problems of a Constitution for World Society," 449.

[6]Thomas V. Pogge,"Cosmopolitanism and Sovereignty," in *Chicago Journals: Ethics* 103.1 (1992): 56.

[7]Nancy Kokaz, "Institutions for Global Justice," in *Canadian Journal of Philosophy* 31 (2005): 69.

[8] *Ibid*.

[9] Kokaz,78.

[10] *Ibid*, 83.

[11] Kokaz, 95.

[12] Habermas, "The Constitutionalization of International Law and the Legitimation Problems of a Constitution for World Society", 452.

[13] Pogge, 56.

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