

Phil 115, June 22, 2007
The claims of nations and the claims of justice

So far, we have considered what justice within a single society requires. Now we consider what justice across societies requires.

Why should individual citizens support the political institutions under which they live?

Can the natural duty of justice meet the particularity requirement?

Rawls's main answer lies in the natural duty of justice: "to support and comply with just institutions that exist and apply to us" and "to further just arrangements not yet established, at least when this can be done without too much cost to ourselves" (99).

Simmons asks how this account of political requirement can satisfy what he calls the "particularity requirement." Political obligations, he notes, are ordinarily thought to be "moral requirements which bind an individual to one *particular* political community, set of political institutions, etc." (31). In order to satisfy the particularity requirement, we need to identify some connection that a person might have to a *particular* set of political institutions, *but not to others* that explains why he is bound to those institutions and not others.

One such connection is that the person has *consented* to a particular set of political institutions. But the natural duty of justice cannot involve this connection, since the natural duty of justice does not depend on consent.

The natural duty of justice in fact reads, "to support and comply with just institutions that exist *and apply to us*." So perhaps the special connection consists in institutions' "applying to us."

What is it for an institution to *apply* to us?

- Does an institution "apply to" me simply if I meet the relevant description stated in its rules?
- Do institutions "apply to" me simply if I am a resident of the territory in which those institutions hold sway?

Perhaps the natural duty of justice binds us *not* to any *particular* set of political institutions, but instead to *all* political institutions, so long as they are just.

Are political obligations "associative duties"?

As Scheffler observes, Simmons seems to assume that the only thing that could establish a special connection to a particular set of institutions is a voluntary act.

But perhaps there is another possibility. Many would say that I have a special connection to my parents, one that grounds filial obligations to them, even though I never consented to their being my parents. The underlying idea seems to be that the parent-child relationship itself grounds special obligations. Similarly, it might be said the citizen-nation relationship itself grounds special obligations. Scheffler describes obligations like these, which arise from a special relationship or membership in a group as "associative duties."

Certainly, a great deal of ordinary moral opinion supports the idea that we have associative duties to our family, friends, etc. Witness appeals to loyalty, solidarity, fraternity. Why not accept, then, that political obligations are associative duties?

1. *Scheffler's "voluntarist objection"*: Associative duties can be burdensome to those who bear them. Why should they have to bear such burdens unless they have consented to them? Perhaps Simmons didn't *overlook* the possibility that political obligations might be associative duties, when he assumed that only some act of will could satisfy the particularity requirement. Perhaps he excluded the possibility on moral grounds: that associative duties offend against the values of freedom and autonomy.

Reply: Why isn't there a similar "voluntarist objection" to the moral duty not to lie, steal, kill, etc.?

2. Would associative duties require us to support our nation, even when it is unjust? The natural duty of justice has a built-in escape clause. If our state is not just, then we have no duty of justice to support it. Associative obligations, by contrast, seem to have no obvious escape clause.
3. *Scheffler's "distributive objection"*: This objection applies to all particularistic obligations, including associative duties *and* voluntary obligations. A particularistic obligation that A has to B may work to the disadvantage of C. For example, the particularistic obligation that rich Americans have to take care of poor Americans before poor foreigners may work to the disadvantage of those foreigners. If not for the particularistic obligation, rich Americans would have treated poor Americans and poor foreigners equally. Patriotism, it might be said, leaves foreigners worse off.
4. "Patriotism denies that all people are equally valuable. Similarly, associative duties (and perhaps particularistic obligations generally) deny that all people are equally valuable. After all, associative duties say that we should do more for some people than for others."

Reply: Associative duties are justified in terms of the special value of the *relationships* that one has to certain people, not the *greater value* of those people. Furthermore, considerations of unequal value *could not* justify what associative duties justify.

5. "*Patriotism is like racism.*"

Reply: Racism, sexism, and other forms of group chauvinism consist principally in beliefs that one race, sex, or group is superior to others. The patriot, by contrast, values his relationship to his country and his compatriots. When agent and beneficiary are both members of the allegedly superior race, racism may resemble the valuation of a relationship. In other contexts, however, these reasons generalize in radically different ways. According to the American patriot, Swedes do not have the same reason to treat his own compatriots (i.e., Americans) specially, but Swedes do have the same reason to treat one another specially. According to the racist, by contrast, members of other,

inferior races have the *same* reason to treat members of his own, *superior* race specially, but do not have the same reason to treat *one another* specially.

Why should principles of justice apply to single societies at all?

How might Rawls's theory of justice be extended?

Pogge lists three alternatives:

R1: A second original position where the parties represent everyone globally.

R2: A second original position where the parties represent nation-states.

G: A single original position where the parties represent everyone globally.

We know what the interests of the parties in R1 and G are. They are the same interests as in the OP: to get as large a share of primary good for themselves as possible. But what are the interests of the parties in R2? What are the interests of states? Wealth? Power? The greatest happiness for their populations? No: the interest of a state is simply that it is just. For Rawls, at least in *A Theory of Justice*, society has no ends of its own, apart from justice for its citizens. In keeping with the social contract tradition, society is viewed as having only those aims that individuals, through their social contract, imbue it with.

What would the parties choose?

R1: The international basic structure is just only if it satisfies the two principles applied to individuals globally. However, principles for the international basic structure may be constrained by principles for national basic structures, which were chosen in the first OP.

R2: The international basic structure is just only if each state is enabled to have a just national basic structure.

G: Same as R1, but principles for the international basic structure are not constrained by principles for national basic structures. No principles for national institutions have been selected yet. All of the principles are chosen at once.

In none of these cases, Pogge argues, would the traditional law of nations be chosen. In the traditional law of nations, states have something like the rights of individual citizens. They are sovereign, with rights to self-determination, nonintervention, and self-defense. Their duties are to respect the similar rights of other states, to keep treaties, and to abide by principles of just war.

If the traditional law of nations would be chosen in any of these choice situations, it would seem to be R2. But even the parties in R2 would reject the traditional law of nations, according to Pogge, because:

1. Some states may be too poor to secure the equal basic liberties for their citizens. The traditional law of nations does not require more fortunate states to provide aid.

2. In the absence of some mechanism for adjudication and enforcement, the international order is likely to be unstable, threatening just national institutions.
3. Just states have no right (let alone duty) to intervene to reform unjust states.

Which choice situation is the appropriate extension of Rawls's theory?

Pogge protests vigorously against R2. Although Pogge offers several arguments, all of them appear to depend on the premise of "individualism": that "in matters of social justice only *persons* are to be viewed as ultimate units of (equal) moral concern" (247). States themselves have no claims. There are only the claims of individual persons. Pogge finds individualism overwhelmingly plausible, and he contends that Rawls is committed to it.

Once we accept individualism, we are apt to find R2 unacceptable. First, R2 would allow inequalities in individuals' political liberties. Foreigners have no say in U.S. elections, although the outcomes of those elections affect their lives.

Second, R2 would allow a vastly unequal distribution of income and wealth *across* nations, even if it required just distributions *within* nations. The worst-off individual position might be far worse under international institutions satisfying the principles chosen in R2 than it would be under feasible alternative international institutions.

Pogge then argues, on similar grounds, for G over R1. R1 allows the choice of principles for international institutions to be constrained by the prior choice of principles for national institutions. Once we accept individualism, this constraint seems pointless. Indeed, R1 simply takes the existence of the nation-state for granted. But perhaps the nation-state is itself an unjust institution. G leaves it an open question whether the world should be divided into nation-states.

The transition toward a just international order:

Pogge contends that it is beside the point whether it is *possible* to achieve such a just international order from where we now stand. We want a criterion of what a just international order would be, whether or not we can hope to realize it.

Pogge also argues against the claim that significant *moral* considerations stand in the way of achieving a just international order. First, he thinks it is question-begging to claim that we are not obligated to give so much away to the Third World, because we have "legitimate expectations" to what we are accustomed to getting in the First World. Our expectations are legitimate only if they resulted from *just* institutions.

Second, he takes a dim view of the appeal to other values "such as our compatriotic fellow feeling or our deep loyalties" to resist progress toward a more just international order (262). If we care about such values, then we ought to ensure that everyone can enjoy them, not just ourselves.

Global principles and cultural diversity:

In any event, these concerns about the feasibility and permissibility of transitioning to a just world order would not undermine Pogge's main thesis, which is that his global principles give the correct criterion of global justice. The only serious threat to that thesis, he thinks, is that the

fundamental ideas underlying Rawlsian principles of justice may not be shared by everyone globally. Perhaps we should not impose our own conception of justice on cultures that do not share its underlying values.

What's the alternative? We have to make some choice as to how we shape the international basic structure. Since we cannot help interacting, even “doing nothing” is a choice: a choice to perpetuate the status quo. So what other choice should we to make, if not the choice to shape the international basic structure to accord with justice, as we understand it?

Why shouldn't we decide that we are right, and they are wrong? If, having considered the matter to the best of our ability, we continue to find our conception of justice sound, why shouldn't we conclude that other cultures are mistaken? After all, in the domestic case, there will always be fanatics of various kinds who will reject our conception of justice.

In tolerating other cultures, aren't we already “imposing” our conception of justice on them? Isn't our reluctance to impose our conception of justice on other cultures an expression of that very conception? We recoil at the idea of forcing on other nations a system of government that they would not themselves affirm. Why? Because we would be denying them equal political liberty: an equal say in how their government is structured? If so, aren't we already “imposing” our conception on them, in the relevant sense: tolerating their system of government only to the extent that it expresses liberal rights?

It might be said that we are “imposing” only part of our conception of justice on them. We care only that their social structure is democratically chosen. But this seems an unstable position. Why should we care only about political liberties, and not other liberal rights? Is it acceptable, for example, if the majority votes to persecute a minority?