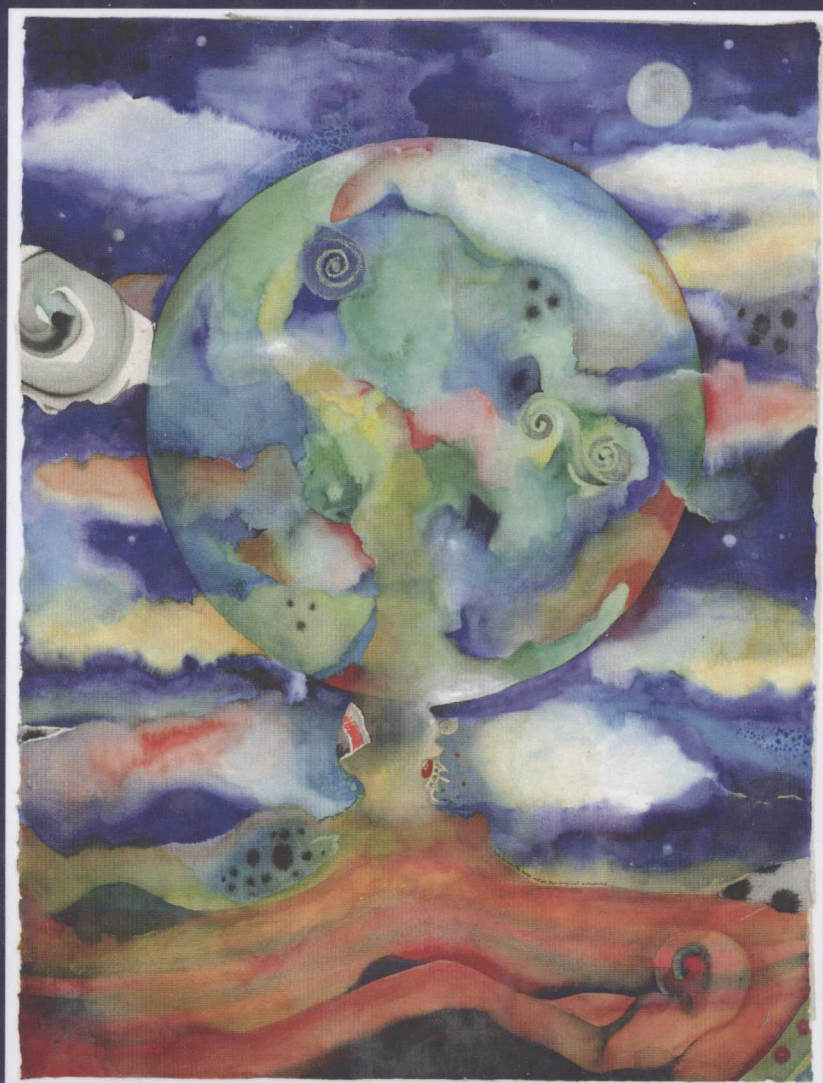


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Justice in a Globalized World

A Normative Framework



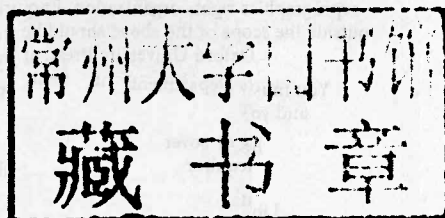
Laura Valentini

Justice in a Globalized World

A Normative Framework

LAURA VALENTINI

University College London



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Great Clarendon Street, Oxford OX2 6DP

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Published in the United States
by Oxford University Press Inc., New York

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First published 2011

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British Library Cataloguing in Publication Data
Data available

Library of Congress Cataloging in Publication Data
Data available

Typeset by SPI Publisher Services, Pondicherry, India
Printed in Great Britain
on acid-free paper by
MPG Books Group, Bodmin and King's Lynn

ISBN 978-0-19-959385-9

3 5 7 9 10 8 6 4 2

JUSTICE IN A GLOBALIZED WORLD

Acknowledgements

For mamma, papà, and Christian

I began to work on this book when I was a first-year PhD student. Since then, I have accumulated a giant debt of gratitude towards my mentors, colleagues, family, friends, restaurant coffee shops, and chocolateists. The list of those who have supported me is very long, and the space in which to thank them is very small. What follows only begins to convey how grateful I am to all of them.

I first started to think about global justice as an undergraduate student at the University of Paris, where I was taught by Jean Garret. Jan was a most attentive supervisor back in Paris, and is now a much-loved friend and continued source of intellectual inspiration. I would be glad if my work were half as rigorous as his! I then moved to UCL, where I spent four enjoyable and fruitful years as a graduate student. I am indebted to many of my fellow PhD students for their friendly support and engagement with my work, and to my supervisor, Cécile Labadie, from whom I have learnt a tremendous amount. She has always managed to strike the right balance between criticism (of outstanding quality) and support, and I would feel very proud of myself if one day I became as good a mentor as she was for me. I also want to express my sincere gratitude towards Bob Goodin, who invited me to spend a few months at the Australian National University (ANU) in 2007 and 2009. I have benefited immensely from the time spent at the ANU, with its notable combination of rigorous philosophy and friendly socialising, and from Bob's generous advice and unfailing support over the years. While in Australia, I had the opportunity to collaborate with Christian Barry, who was a great co-author and with whom I have had many helpful discussions on international ethics. I am grateful to my PhD examiners, David Miller and Jonathan Wolff, for their feedback and encouragement to three anonymous readers for Oxford University Press, who have provided detailed and thoughtful reports on the book's penultimate draft, and to Henkric Bunt for overseeing the editorial process. The book reproduces portions of already published work of mine, and I am grateful to the publishers for permission.

Chapters 2 and 4 partly draw on 'A. Valentini, On the Apparent Paradox of Ideal Theory', *Journal of Political Philosophy* 17 (3) (2009), by permission of Wiley-Blackwell, and much of Chapter 6 draws on 'A. Valentini, Coercion and (Global) Justice', *American Political Science Review* 105 (1) (2011), by permission of Cambridge University Press.

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I first started to think about global justice as an undergraduate student at the University of Pavia, where I was taught by Ian Carter. Ian was a most attentive supervisor back in Pavia, and is now a much-cherished friend and continued source of intellectual inspiration. I would be glad if my work were half as rigorous as his! I then moved to UCL, where I spent four enjoyable and fruitful years as a graduate student. I am indebted to many of my fellow PhD students, for their friendly support and engagement with my work, and to my supervisor, Cécile Laborde, from whom I have learnt a tremendous amount. She has always managed to strike the right balance between criticism (of outstanding quality) and support, and I would feel very proud of myself if one day I became as good a mentor as she was for me. I also want to express my sincere gratitude towards Bob Goodin, who invited me to spend a few months at the Australian National University (ANU) in 2007 and 2009. I have benefited immeasurably from the time spent at the ANU, with its unique combination of rigorous philosophy and friendly socializing, and from Bob's generous advice and unfailing support over the years. While in Australia, I had the opportunity to collaborate with Christian Barry, who was a great co-author, and with whom I have had many helpful discussions on international ethics. I am grateful to my PhD examiners, David Miller and Jonathan Wolff, for their feedback and encouragement, to three anonymous readers for Oxford University Press, who have provided detailed and thoughtful reports on the book's penultimate draft, and to Dominic Byatt for overseeing the editorial process. The book reproduces portions of already published work of mine, and I am grateful to the publishers for permission.

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was strikingly rich, and I feel privileged to have had the opportunity to take part in it. For many instructive and enjoyable conversations on themes related to this book's topic, I am especially grateful to Charles Beitz, Brookes Brown, Simon Caney, Ryan Davis, Kyla Ebels-Duggan, Robert Jubb, Joseph Mazor, David Miller, Nicholas Southwood, Annie Stilz, John Tasioulas, Patrick Tomlin, and Lea Ypi. Philip Pettit in particular has been helpful and encouraging well beyond the call of duty, engaging with my work and providing much-needed intellectual and emotional support while I was on the infamous job market.

Other friends and colleagues who have been helpful along the way include Sara Amighetti, Peter Balint, Richard Bellamy, Enrico Biale (who read the full final draft of the manuscript), Clara Brandi, Geoff Brennan, Alex Brown, Emanuela Ceva, Chiara Cordelli, Pablo Gilabert, Tamara Jugov, David Karp, Eszter Kollár, Steve Macedo, Pietro Maffettone, Larry May, Saladin Meckled-Garcia, Julio Montero, Valeria Ottonelli, David Owen, Christian Schemmel, Henry Shue, Kai Spiekermann, Zofia Stemplowska, Federico Zuolo, and Jennifer Welsh. In addition, I have benefited from presenting work related to this book in departmental seminars at the ANU, Birmingham, Essex, Genoa, Manchester, Oxford, Princeton, Roehampton, Rutgers, and UCL. For questions and comments, I am also grateful to the participants at several graduate conferences (Warwick, Manchester, Harvard, and Pavia) and professional conferences including the Canadian Political Science Association Annual Conference, the International Studies Association Annual Convention, the Association for Legal and Social Philosophy Annual Conference, the European Consortium for Political Research Joint Sessions of Workshops, and the conference on Global Justice: Theory Practice Rhetoric at the University of New South Wales. The latter conference also marked the launch of an initiative, called *The Global Justice Network*, involving myself and some of my closest friends and colleagues. Two of them in particular deserve special mention: Tiziana Torresi and Miriam Ronzoni.

I met both of them when I was an undergraduate visiting student at Oxford University, in 2003–2004, and since then they have been among the most loyal friends and impressive colleagues one could hope to have. With Miriam I have collaborated on a number of projects, from which I have learnt a lot, and which have benefited this book in more ways than I can explain. Both Miriam and Tiziana have consistently been sources of inspiration and encouragement, ready to support me when I needed support, to engage with my work when I needed feedback, and to tell me off when I needed to stop working. I owe them a very big "Thank you!" for all of this.

Finally, I cannot even begin to express my gratitude towards the people to whom this book is dedicated: my parents, Annamaria and Alfredo Valentini, and my partner, Christian List. My parents' unbounded love and generosity is something I will forever be grateful for: they have always been there for me,

sometime at the cost of not being there for themselves. Christian has been an unfailing support, both intellectually and emotionally. He has read two full drafts of the manuscript, engaged with many of its arguments, and instilled confidence in me when I was losing it. Without him, my life would not be the same and neither would be my work.

To all the people I have mentioned (and to those I might have forgotten): *Grazie mille!*

February 2011

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Introduction: The Problem of Global Justice

1.1 INTRODUCTION

Kant famously said, '[t]he peoples of the earth have thus entered in varying degrees into a universal community, and it has developed to the point where a violation of rights in one part of the world is felt everywhere'.¹ This much-cited line from *Perpetual Peace* is now truer than ever before. We live in an age of globalization. The goods that we buy, the news that moves us, the trends we follow, and the people we encounter come from all over the world. Nowadays, if we want to get a sense of what is, or might be, happening at home, we also need to take a look at what is, or might be, happening abroad. Over the past fifty years or so, phenomena such as human-rights violations, poverty, civil wars, genocides, and epidemics have acquired an unprecedented global dimension.

Globalization opens up new possibilities and generates new challenges. As many have noted, whether it is a blessing or a curse very much depends on how it is managed, or on how *we*, humankind as a whole, respond to it. In turn, our responses to globalization may be evaluated from a plurality of different perspectives: one of them is that of morality.

We pass moral judgements on how states, corporations, NGOs, international institutions, and other global actors participate in, and react to, globalization on a daily basis. We judge the rules governing financial and trade liberalization, the particular development policies undertaken by industrialized nations, we blame our countries and ourselves (at least those who live in the wealthy Western world) for failing to assist the poor and destitute, we agonize over whether wars fought in the name of human rights and democracy are morally defensible, and so forth. These are just a few examples of the moral challenges we are confronted with by virtue of living in an evermore globalized world.

One of the difficulties in approaching what might be referred to as the morality of globalization is the lack of a well-developed moral 'toolkit' with

¹ Immanuel Kant, 'Perpetual Peace: A Philosophical Sketch' (1795), in Hans Reiss (ed.), *Kant's Political Writings* (Cambridge: Cambridge University Press, 1970), 93–130, pp. 107–8.

which to do so. Most of our political-moral vocabulary has been designed to answer questions arising within self-contained political communities. Now that the context and effects of our actions extend well beyond domestic borders, more versatile moral tools are needed. The process of constructing such tools involves asking whether principles and concepts that are familiar in the domestic arena can be extended to the international one, or at least modified so as to fit it.

Central to domestic *political morality* is the notion of *justice*. We routinely assess political institutions from the standpoint of justice and injustice, for instance, when we complain that the tax burdens imposed by the government are unjust, or that a small subset of the citizenry unjustly enjoys far better opportunities than the rest, or when we approvingly observe that a new pension scheme or labour law is more just than what we previously had; the list could continue almost indefinitely. As increasing international integration is, arguably, turning what used to be a world of separate states into a global society, political theorists have started to wonder whether the notion of justice they appeal to in the domestic context could also be invoked at the international, some would say global, level.

This question also constitutes the focus of the present book. I concentrate on contemporary liberal political theory, whose ideals are most eloquently articulated in the works of John Rawls and reflect much of the political sensitivity of the Western world, and ask whether it is capable of offering a plausible answer to *the question of extension*: 'Can principles of justice be meaningfully extended from the domestic context to the world at large?' As liberal principles of domestic justice are rather demanding – requiring equal civil and political liberties, equality of opportunity, and placing strict limits on permissible economic inequalities – our answer to this question has potentially far-reaching implications.² Should these egalitarian principles extend beyond the domestic arena and apply on a global scale?

Liberal theorists are famously divided on this question. Some, who have become known as cosmopolitans, answer it in the affirmative; others, so-called statist (or nationalists, or social liberals), answer it in the negative.³ The former conceive of global justice as domestic justice writ large. For them, the egalitarian principles of justice that liberals defend at the domestic level should also apply globally. The latter, by contrast, deny that egalitarian justice has

² These are the kinds of requirements advanced by the most prominent contemporary liberal theories of justice. See e.g. John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1999 rev. ed.); and Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge, MA: Harvard University Press, 2000).

³ I here understand statism broadly, as indicating those views that place emphasis on individual political communities, be they characterized as nations, peoples, or states. (The otherwise important differences between these notions are of little relevance for present purposes.)

a place beyond the domestic arena, and opt for an account of international morality consisting of principles of mutual assistance and respect between internally well-ordered political communities.

While cosmopolitanism and statism are still popular in the global justice literature, some scholars have recently suggested that genuine progress in this area can only be made by transcending the dichotomy between them. For these scholars, the dilemma between globalizing domestic principles of justice, on the one hand, and denying that justice has any role to play outside state borders, on the other, is a false one. Much more plausible, they argue, is the view that different principles of justice apply to different domains of human action. This allows one to claim that principles of justice should govern global or near-global social practices, without thereby also implying that domestic egalitarian justice should extend to the world at large.⁴

Albeit very promising, this third 'wave' of the debate on global justice is still in its infancy, and most of its representatives have focused on the question of what justice requires in relation to specific global practices, such as trade or health care distribution. That is, so far no comprehensive treatment of the difficulties with cosmopolitanism and statism, and systematic account of how to overcome them, has been offered.⁵

Firmly situated in this 'third' wave of the debate on global justice, the present book aims to fill this lacuna, by providing a sustained critical discussion of cosmopolitanism and statism, and a fresh perspective helping us to steer a middle course between them. The book consists of three parts. Parts I and II look at cosmopolitanism and statism in detail, and trace the difficulties with their substantive moral demands to more fundamental *methodological* shortcomings. Part III puts forward a methodologically sound normative

⁴ See e.g. Joshua Cohen and Charles Sabel, 'Extra Rempublicam Nulla Justitia?', *Philosophy and Public Affairs*, 34 (2) (2006), 147–75; A. J. Julius, 'Nagel's Atlas', *Philosophy and Public Affairs*, 34 (2) (2006), 176–92; Aaron James, 'Distributive Justice without Sovereign Rule: The Case of Trade', *Social Theory and Practice*, 31 (4) (2005), 533–59; Miriam Ronzoni, 'The Global Order: A Case of Background Injustice? A Practice-dependent Account', *Philosophy and Public Affairs*, 37 (3) (2009), 229–56; Andrea Sangiovanni, 'Justice and the Priority of Politics to Morality', *Journal of Political Philosophy*, 16 (2) (2008), 137–64; Norman Daniels, *Just Health: Meeting Health Needs Fairly* (New York and Cambridge: Cambridge University Press, 2008), ch. 13; Lea L. Ypi, 'Statist Cosmopolitanism', *Journal of Political Philosophy*, 16 (1) (2008), 48–71, and 'Justice and Morality beyond Naïve Cosmopolitanism', *Ethics & Global Politics*, 3 (3) (2010), 171–92; Rainer Forst, 'Towards a Critical Theory of International Justice', *Metaphilosophy*, 32 (1/2) (2001), 160–79; Richard W. Miller, *Globalizing Justice: The Ethics of Poverty and Power* (Oxford: Oxford University Press, 2010); and Anna Stilz, *Liberal Loyalty: Freedom, Obligation, and the State* (Princeton, NJ: Princeton University Press, 2009), esp. pp. 101–9.

⁵ Two recent *comprehensive* contributions to the literature on global justice have started to move towards a middle ground between cosmopolitanism and statism: Gillian Brock's *Global Justice: A Cosmopolitan Account* (Oxford: Oxford University Press, 2009); and David Miller's *National Responsibility and Global Justice* (Oxford: Oxford University Press, 2007). Notice, however, that Brock and Miller still explicitly place themselves in the cosmopolitan and statist (social liberal/nationalist) camps, respectively.

framework for thinking about justice, understood as an eminently political virtue, both domestically and internationally.⁶ In a nutshell, on the view I defend, the role of principles of justice is to evaluate the moral justifiability of coercion. Because of their freedom-restricting nature, coercive acts and relations stand in need of special justification. The principles that establish the conditions under which coercion is justified are what I call principles of justice.

I argue that, since coercion exists domestically as well as internationally, principles of justice should apply to both realms. However, since the forms of coercion characterizing these two realms differ, the principles of justice governing them need not have the same *content*. More specifically, I conclude that global justice requires more than statist assistance, yet less than cosmopolitan global equality.

In this introductory chapter, I offer an overview of the theoretical landscape in which the book is situated, describe its structure, and anticipate its central claims in greater detail. In Section 1.2, I set out the fundamental commitments of contemporary liberalism. In Section 1.3, I consider the two dominant liberal approaches to global justice: cosmopolitanism and statism. In Section 1.4, I argue that both approaches encounter significant difficulties from a theoretical as well as a practical point of view. This suggests that the debate between these two outlooks has reached an impasse. In Sections 1.5 and 1.6, I lay out the structure and contents of the book, thereby illustrating my proposed way out of the impasse.

1.2 CONTEMPORARY LIBERALISM: A BRIEF OVERVIEW

It is now widely acknowledged that contemporary liberal theorists share a fundamental commitment to the principle of *equal respect for persons qua autonomous, self-directing, agents*. From a liberal perspective, human beings are the ultimate sources of moral concern. Although every individual has a special responsibility for her/his own life and well-being, from an impartial perspective, each has equal value and a right to form and pursue her/his own conception of the good.⁷ This is why, for liberals, the moral quality of actions

⁶ The notion of justice is also used outside the political context. For instance, a child may plausibly complain that it is *unjust* that his brother receives more Christmas presents than him. Even if the child's claim is perfectly intelligible, his use of 'justice' is not one I am concerned with here. Throughout this book, I will understand justice as a political concept, applying in the first instance to political practices and institutions.

⁷ See e.g. Will Kymlicka, *Contemporary Political Philosophy: An Introduction* (Oxford: Oxford University Press, 2002, 2nd ed.), p. 4; Dworkin, *Sovereign Virtue*; and Thomas Nagel, *Equality and Partiality* (Oxford: Oxford University Press, 1991).

and institutions is to be judged on the basis of how they affect each person's life prospects.

Contemporary liberal theorists differ with respect to how they interpret the requirements following from this fundamental commitment. However, most of them share the view that, at the very least, equal respect demands *intersubjective justifiability*. As Jeremy Waldron puts it, 'liberalism rests on a certain view about the justification of social arrangements', that is

liberals are committed to a conception of freedom and of respect for the capacities and the agency of individual men and women, and . . . these commitments generate a requirement that all aspects of the social should either be made acceptable or be capable of being made acceptable to every last individual.⁸

Just to mention one prominent example, the justificatory approach Waldron describes is central to John Rawls's outlook on justice. This appears clear in Rawls's derivation of the principles of justice from the so-called original position: a hypothetical choice situation where suitably idealized representatives of citizens are asked to agree on what principles should regulate the distribution of social goods within their polity.⁹ This focus on unanimous agreement reflects the idea that such principles should be justifiable to *all* those whose lives they govern. To be just (morally legitimate), a social order must be *in principle* capable of attracting the consent of those who are, in some way or other, subject to it, independently of their actual consent. In Waldron's words '[w]hen we move from asking what people actually accept to asking what they *would* accept in certain conditions, we shift our emphasis away from will and focus on the *reasons* people might have for exercising their will in one way rather than another'.¹⁰

In short, in this book I shall understand liberalism to require that the ways in which we affect each other's lives – most importantly through participating in social arrangements – be justifiable to common human reason, no matter what one's specific outlook on life, or conception of the good, is. The idea of equal respect for persons interpreted in terms of intersubjective justifiability is what I take to be the hallmark of contemporary liberalism. When liberals approach issues of international morality, they do so from within this particular justificatory standpoint. But how do they answer the *question of extension*, namely the question of whether principles of domestic justice should extend to the world at large?

⁸ Jeremy Waldron, 'Theoretical Foundations of Liberalism', *The Philosophical Quarterly*, 37 (147) (1987), 127–50, p. 128.

⁹ Rawls, *A Theory of Justice*, ch. 3.

¹⁰ Waldron, 'Theoretical Foundations of Liberalism', p. 144, *emphases original*.

1.3 LIBERALISM AND GLOBAL JUSTICE: THE DEBATE

As anticipated, within liberal quarters, there are two opposite stances on this question: cosmopolitanism and statism. The former answers the question in the affirmative, the latter in the negative.¹¹

Cosmopolitans share the conviction that, given the fundamental moral equality of persons, the *egalitarian* principles liberals adopt to assess domestic distributions of liberties, opportunities, and economic goods should apply to the world at large. Specifically, for most contemporary liberals, societies are just so long as they grant their citizens equal civil and political rights, as well as equal opportunities, and place strict constraints on permissible economic inequalities. Only then could social arrangements be justified in the eyes of all.

In light of this, cosmopolitans say, it would be irrational for people to want to live in a world where their fate is in large part determined by morally arbitrary factors, over which they have no control, such as their countries of birth. If the domestic social order needs to be justified in the eyes of all, so does the global one, and it is unclear why common human reason would deliver different answers in these two cases. That is, it is unclear why egalitarian justice should apply domestically, but not globally.

Although different cosmopolitan theorists justify this claim in different ways, they all believe that equal respect for persons requires egalitarian justice both at home and abroad. Some theorists, such as Simon Caney, Kok-Chor Tan, and Charles Beitz (in his more recent work), believe that equality follows directly from the principle of equal respect for persons, and thus automatically extends to the world at large.¹² Others, such as Thomas Pogge, Charles Beitz (in his earlier work), and Darrel Moellendorf, hold that equal respect for persons requires substantive equality only between people who stand in particular kinds of relations *vis-à-vis* one another – for example between citizens sharing a common set of legal, political, and economic institutions, what Rawls calls a ‘basic structure of society’.¹³ For these ‘relational cosmopolitans’, such relevant relations can now be said to exist worldwide.¹⁴

¹¹ This definition is offered in Charles R. Beitz, ‘Social and Cosmopolitan Liberalism’, *International Affairs*, 75 (3) (1999), 515–29.

¹² Charles R. Beitz, ‘Cosmopolitan Ideals and National Sentiment’, *The Journal of Philosophy*, 80 (10) (1983), 591–600; Simon Caney, *Justice beyond Borders: A Global Political Theory* (Oxford: Oxford University Press, 2005); and Kok-Chor Tan, *Justice without Borders: Cosmopolitanism, Nationalism and Patriotism* (Cambridge: Cambridge University Press, 2004).

¹³ Thomas W. Pogge, *Realizing Rawls* (Ithaca, NY: Cornell University Press, 1989); Charles R. Beitz, *Political Theory and International Relations* with a new afterword (Princeton, NJ: Princeton University Press, 1999); and Darrel Moellendorf, *Cosmopolitan Justice* (Boulder, CO: Westview Press, 2002).

¹⁴ I borrow the distinction between relational and non-relational cosmopolitanism from Andrea Sangiovanni, ‘Global Justice, Reciprocity, and the State’, *Philosophy and Public Affairs*, 35 (1) (2007), 3–39, pp. 5–8.

Contrary to cosmopolitans, statist hold that a correct interpretation of equal respect grounds duties of egalitarian justice domestically but only more modest duties of assistance and just interstate conduct internationally. On this view – which corresponds to Rawls's own and has been partly defended by scholars such as David Miller, David Reidy, Thomas Nagel, Michael Blake, and Andrea Sangiovanni¹⁵ – what reason demands varies across different contexts. Different practices produce different goods and express different values: while domestic justice assesses the quality of the relations between free and equal citizens, international justice concerns the relations between free and equal political communities. Consequently, statist consider equal civil and political rights and egalitarian socio-economic policies unsuitable for the international arena. At the international level, respect for equal civil and political rights is often replaced with a thinner criterion: respect for basic human rights; and egalitarian socio-economic policies, aimed at achieving equality of opportunity and wealth between individuals, are replaced by duties of assistance aimed at addressing absolute (as opposed to relative) deprivation between peoples. So long as peoples respect one another's right to self-determination, honour basic human rights, and assist one another in difficult circumstances, the demands of international morality are entirely fulfilled.

Even though statist may be regarded as defending an account of international 'justice' based on principles of respect for the sovereignty of minimally just states and mutual assistance between them, the notion of justice they employ at the global level significantly differs from the one they champion domestically. This is why I claim that they answer the question of extension in the negative. No matter how they call their principles of international morality, at least *prima facie*, these seem far from being an extension of principles of domestic justice.

The differences between cosmopolitans' and statist's outlooks on global justice have significant theoretical and practical implications, especially when it comes to how we conceptualize the demandingness and stringency of our duties towards the global poor. From the viewpoint of demandingness, there is a clear difference between promoting cosmopolitan global socio-economic

¹⁵ John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999); David Miller, *On Nationality* (Oxford: Clarendon Press, 1995); Thomas Nagel, 'The Problem of Global Justice', *Philosophy and Public Affairs*, 33 (2) (2005), 113–47; Michael Blake, 'Distributive Justice, State Coercion, and Autonomy', *Philosophy and Public Affairs*, 30 (3) (2001), 257–96; David A. Reidy, 'Rawls on International Justice: A Defense', *Political Theory*, 32 (3) (2004), 291–319; and Andrea Sangiovanni, 'Global Justice, Reciprocity, and the State', *Philosophy and Public Affairs*, 35 (1) (2007), 3–39. As suggested in footnote 5, David Miller's *National Responsibility and Global Justice* does not fall quite as neatly within the statist camp as I describe it. See Laura Valentini, 'Cosmopolitan or Social Liberal? Review of David Miller's *National Responsibility and Global Justice*', *Global Justice: Theory Practice Rhetoric*, 2 (2009), 50–3, for further discussion.

equality, and ensuring that every political community has sufficient resources to sustain itself. Needless to say, attaining the former goal requires much greater sacrifices on the part of wealthy nations than attaining the latter. From the viewpoint of stringency, while cosmopolitans explicitly regard our duties towards distant others as weighty duties of justice, statist are somewhat ambiguous in this respect. In particular, the way they characterize such duties suggests that they are instead weaker – though still obligatory – demands of humanitarian assistance.¹⁶

The distinction between justice and humanity is a familiar one in our moral vocabulary, and is central to much of the debate on global justice.¹⁷ While principles of justice establish persons' entitlements, principles of humanity ground duties to help those in need with resources that are rightfully one's own.¹⁸ Unlike humanity, justice creates a

system of rights (and consequently of duties and obligations) . . . and 'rights' are protected fields for activity within which individuals or groups may pursue their interests.¹⁹

Infringing a duty of justice thus means violating someone's rights, by failing to respect her/his entitlements. This is why duties of justice are seen as particularly weighty. If you have a duty to help others in need, *a fortiori*, you have a duty not to deprive them of, or prevent them from accessing, resources that are justly theirs.²⁰

To see this, consider the following two scenarios. Suppose John finds himself in need after recklessly gambling away all of his money. Moved by John's predicament, Greg decides to help him by offering to pay his rent. In so doing, Greg acts out of a duty of humanity: he generously

¹⁶ I say 'suggests' because there are reasonable disagreements on this point. Thomas Nagel explicitly refers to humanitarian duties, but John Rawls is less clear in this respect. For example, some contend that his duties of assistance are, in fact, stringent and relatively demanding duties of justice [see e.g. David Reidy, 'A Just Global Economy: In Defense of Rawls', *Journal of Ethics*, 11 (2) (2007), 193–236; and Rex Martin, 'Rawls on International Distributive Economic Justice: Taking a Closer Look', in Rex Martin and David Reidy (eds.), *Rawls's Law of Peoples: A Realistic Utopia?* (Oxford: Blackwell, 2006), 226–42], while others argue that they are weaker duties of humanity [see e.g. Tan, *Justice without Borders*, pp. 66ff.; and Thomas W. Pogge, "Assisting" the Global Poor', in Deen K. Chatterjee (ed.), *The Ethics of Assistance: Morality and the Distant Needy* (Cambridge: Cambridge University Press, 2004), 260–88]. I find the latter interpretation more in line with the substance of Rawls's duty. See also footnote 9, ch. 4.

¹⁷ Other terms used to indicate duties of humanity are 'beneficence' and 'charity'.

¹⁸ Brian Barry, 'Humanity and Justice in Global Perspective', in Brian Barry, *Liberty and Justice: Essays in Political Theory 2* (Oxford: Clarendon Press, 1991), 182–210, p. 209. See also Tan, *Justice without Borders*, pp. 66ff., and Sylvie Loriaux, 'Beneficence and Distributive Justice in a Globalising World', *Global Society*, 20 (3) (2006), 251–65.

¹⁹ W. D. Lamont, 'Justice: Distributive and Corrective', *Philosophy*, 16 (61) (1941), 3–18, p. 3.

²⁰ Barry, 'Humanity and Justice', pp. 204–10.