

NEW DIRECTIONS IN GLOBAL JUSTICE: AN AGENT-PRINCIPAL APPROACH

NUEVAS DIRECCIONES EN JUSTICIA GLOBAL:
UN ENFOQUE AGENTE-PRINCIPAL

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ABSTRACT

There is a puzzling fact about recent discussions on global justice. The debate, as of today, is fairly sophisticated and advanced, and all kinds of views have been defended. However, this debate has often ignored some of the most flagrant injustices of the real world, or is useless to assess them. Consider the following example: currently, the international financial system is set up in such a way that it forces countries (usually poor ones) to repay their sovereign debts, even if these debts are not morally binding for them. Thus, entire generations end up burdened with debts that were fraudulently incurred in their name. Despite the fact that this problem is massive, global justice scholars have either neglected it, or have not addressed it adequately. In this paper, I attempt to solve the puzzle. That is, I try to explain why there is such a gap in the global justice literature. Also, I propose a new approach to global justice which, in my view, fills this gap.

KEYWORDS

Global justice, statism, cosmopolitanism, sovereign debts, resource curse.

RESUMEN

Hay un hecho enigmático acerca de las recientes discusiones sobre justicia global. El debate, al día de hoy, es bastante sofisticado y avanzado, y se han defendido todo tipo de teorías. Sin embargo, este debate típicamente ha ignorado algunas de las más flagrantes injusticias del mundo real, o es inútil para evaluarlas. Considérese el siguiente ejemplo: actualmente, el sistema financiero internacional está organizado de manera tal que fuerza a los países (habitualmente pobres) a pagar sus deudas soberanas, aun cuando estas no son vinculantes. De esta manera, generaciones enteras terminan siendo cargadas con deudas que fueron incurridas de manera fraudulenta en su nombre. A pesar de que este problema es masivo, los especialistas en justicia global lo han ignorado, o no lo han tratado adecuadamente. En este trabajo, intento explicar este enigma. Esto es, intento explicar por qué existe semejante ausencia en los debates recientes sobre justicia global. Además, propongo un nuevo enfoque a la justicia global que, desde mi punto de vista, subsana parcialmente esta deficiencia.

PALABRAS CLAVE:

Justicia global, estatismo, cosmopolitismo, deudas soberanas, maldición de los recursos.

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There is a puzzling fact about recent discussions on global justice. The debate, as of today, is fairly sophisticated and advanced, and all kinds of views have been defended. However, this debate has often ignored some of the most flagrant injustices of the real world or is useless to assess them. Consider the following example: currently, the international financial system is set up in such a way that it forces countries (usually poor ones) to repay their sovereign debts, even if these debts are not morally binding for them. If a corrupt public official borrows funds from an international agency, and uses these funds for his own private purposes, the international community considers the *state*, and not *the ruler*, responsible for the debt (and the interest rates associated with the debt). Thus, entire generations end up burdened with debts that were fraudulently incurred in their name. Despite the fact that this problem is massive, global justice scholars have either neglected it, or have not addressed it adequately.

In this paper, I attempt to solve the puzzle. That is, I try to explain why there is such a gap in the global justice literature. Also, I propose a new approach to global justice which, in my view, fills this gap. I organize the paper as follows. First, I describe the two most important traditions in the global justice debate. Following Samuel Scheffler¹, I call the first one “additive” and the second one “unitary”. Second, I show how these traditions rely on a premise that make the most pressing issues of global justice invisible. I call this premise “outcome-view”. Third, I propose a different way of approaching global justice which, I believe, radically departs from the additive and unitary traditions. This new way, I believe, proposes the new direction that global justice debates should take.

¹ Scheffler, S. (2014). The idea of global justice: a progress report. *The Harvard Review of Philosophy*, 20, 17-35.

THE ADDITIVE AND THE UNITARY CONCEPTIONS.

Discussions of global justice typically include debates about several different issues, such as world poverty, human rights, fair trade, immigration and many others. Two very different philosophical views typically lie at the heart of these discussions: the additive and the unitary conceptions². These conceptions can be described as follows.

On the additive conception, a just world would be a world made up of individually just societies. The norms of distributive justice apply directly to individual societies, and not to the world as a whole. If all of the world's societies satisfy those norms, then we can say that the world as a whole is just, or that global justice has been achieved. On this conception, economic inequalities *among* societies are not an injustice; only unjustified inequalities *within* societies are.

On the unitary conception, there are norms of distributive justice that apply not to individual societies taken one-by-one, but rather to the world as a whole, considered as a single unit. If there are no unjustified inequalities among individuals in the world, the world will be just. So inequalities within states are not relevant; only inequalities among individuals across the globe are.

² The disagreement between different views of global justice is also reflected in the ongoing discussion about different conceptions of human rights. In recent years, two different conceptions of human rights emerged: the political and the humanist conception. According to the former, human rights are claims that individuals have against states. According to the more traditional "humanist" conception, human rights are pre-institutional claims that individuals have against all other individuals in virtue of their common humanity. Clearly, the additive conception is at the basis of the political perspective, and the unitary conception is at the basis of the humanist perspective. Since the practical conception implies that individuals will only have valid claims against their own states, and there are many different states in the world, it follows that there are many different standards of justice. On the contrary, on the humanist perspective, the same standards apply globally, and states are only an instrumental means to realize them. For a fairly sophisticated discussion of these two conceptions of justice see Beitz, C. R. (2011). *The idea of human rights*. Oxford University Press.

Who are the proponents of the additive conception, and what have they said, specifically? Clearly, Rawls is the most important scholar within this tradition. On his view, principles of justice, such as the difference principle, apply to the basic structure of domestic societies; but not to the world at large. As he stated in *The Law of Peoples*³, there are “duties of assistance” that wealthy states have to poor ones, and some minimal moral standards that ought to be respected (such as observing treaties and a duty of non-intervention). However, he energetically rejects the idea of applying a distributive principle such as the difference principle globally. For Rawls, a just world would be a world in which each state is internally just. This implies that if Norway is internally just and Nigeria is internally just, and there is a big economic difference between these two countries, the distribution of wealth will still be just. The fact that there are obvious economic inequalities among states is not sufficient to trigger global distributive principles of justice. So for example if Norway is far better off than Nigeria, this does not mean that Norway will have the obligation to maximize the situation of Nigeria (or, more precisely, that the best—off across both countries will have to maximize the situation of the worse—off across both countries). This is because, for Rawls, the principles of justice apply solely to the basic structure of society. One might argue here that there is also a global basic structure, so principles of justice should also apply globally⁴; but Rawls thinks that there is no such global structure, or that, in any case, it is not the kind of structure that would trigger egalitarian duties of distributive justice, as central features of domestic basic structures are missing in it (e.g. absence of central world authority with coercive power, the fact that there are many incompatible

³ Rawls, J. (2001). *The law of peoples: with "The idea of public reason revisited"*. Harvard University Press.

⁴ Beitz, C. R. (1999). *Political theory and international relations*. Princeton University Press.; and Pogge, T. W. M. (1989). *Realizing Rawls*. Cornell University Press.

conceptions of the good, the empirical assumption that each society is responsible for its own failure, and others).

Other writers who have defended the additive conception are Blake⁵, Nagel⁶ and Sangiovanni⁷.

Blake is concerned with what currently existing institutions ought to do to be justifiable to all. This approach distinguishes between duties that we have to strangers and duties that we have to our fellow citizens; not because we care more about fellow citizens, but because there is an impartial principle that will give rise to distinct burdens of justification between individuals who share liability to the coercive power of a single state. State coercion is a fact, and we have to seek principles by which coercion could be justified. Only in the search for this justification, he argues, does egalitarian distributive justice become relevant. The connection between coercion and equality becomes clear through the notion of autonomy. Blake postulates that all individuals, regardless of institutional context, ought to have access to those goods and circumstances under which they are able to live as rational autonomous agents, capable of selecting and pursuing plans of life in accordance with individual conceptions of the good. People can face a denial of autonomy for several reasons. Coercion is one of them. When somebody is being coerced, his or her will is being violated and replaced with the will of another person. Coercion, in other words, expresses a relation of domination in which our own agency is subdued by the agency of another. States act coercively with their own citizens on an ongoing basis; and this kind of coercion triggers duties of justice, as states have to justify to their citizens the policies that they coercively impose on them in order

⁵ Blake, M. (2001). Distributive justice, state coercion, and autonomy. *Philosophy & public affairs*, 30(3), 257-296.

⁶ Nagel, T. (2005). The problem of global justice. *Philosophy & public affairs*, 33(2), 113-147.

⁷ Sangiovanni, A. (2007). Global justice, reciprocity, and the state. *Philosophy & public affairs*, 35(1), 3-39.

to be legitimate. The reasonable way of doing this is by distributing burdens and benefits equally among the citizens. Now, this kind of ongoing coercion *does not* exist at the international level, he says. Therefore, international egalitarian duties of justice do not arise.

Regardless of the plausibility of Blake's view, it is clear that we should classify it as an *additive* one. Standards of distributive justice apply only domestically, because what generates duties of distributive justice is state coercion, and state coercion only exists at the domestic level. Thus, standards of justice exist within states but not among individuals globally.

Nagel, as Blake, also emphasizes the importance of coercion, but adds to Blake's conception an important dimension: citizens are not just subject to state coercion; they are also authors of the rules that the state ends up imposing on them. This dual relationship (both as subjects and authors of the system) is inexistent globally. Thus, duties of global distributive justice are also absent at the global level.

Finally, Sangiovanni justifies the existence of domestic standards of justice by appealing to the notion of 'reciprocity'. As in Nagel, Sangiovanni states that there is a dual relationship between the state and citizens, which does not exist internationally: while the state delivers basic goods to its citizens, such as security or a stable system of property rights; citizens reciprocate by paying taxes, complying with laws, trusting and participating politically. Since all citizens participate in this scheme, they all owe each other a fair contribution to the goods on which everybody depends. We do not see a similar scheme at the international level.

As we can see, defenders of the additive conception disagree on how to defend the view that there are two different layers of justice. However, they all agree on a basic point: the necessary and sufficient conditions needed in order to trigger global standards of justice are not met. Either because the conditions that give rise to a domestic difference principle in Rawls are absent internationally; or because of lack of coercion, reciprocity or authorship at the global level; there simply is no justification for global standards

of justice. This, in practical terms, means that, for example, inequalities in salaries among teachers of public education within states might be unjustified (this would happen if teachers with the same seniority get different amounts at the end of the month); but inequalities of salaries among teachers of public education globally are *not* unjustified. It would be fine if teachers in Somalia make less than teachers in the US, as long as the internal standards of justice of both countries are satisfied.

Defenders of the *unitary* conception, on the other hand, have rejected the additive conception of global justice, and have argued that the standards of justice that apply internally within states should be extended globally. The main reason is that, in their view, there is not any relevant asymmetry between states and the world at large that justify different standards of justice for each of these domains. Philosophers who can be considered “unitarists” are Thomas Pogge⁸, Kok Chor Tan⁹, Simon Caney¹⁰ and Moellendorf¹¹.

Additivists have tried to show that such asymmetry does exist, but unitarists believe that they have not succeeded in doing so. This is either because the factors that supposedly trigger distributive principles of justice are not what actually triggers them (coercion, for example), or because those factors also exist globally. This, in practical terms, means that according to unitarists there cannot be justified reasons why the salaries of teachers of public schools make less in Somalia than in the US. If conditions are the same

⁸ Pogge, T. W. (2008). *World poverty and human rights*. Polity, or Pogge, T. W. M. (1989). *Realizing rawls*. Cornell University Press.

⁹ Tan, K. C. (2004). *Justice without borders: Cosmopolitanism, nationalism, and patriotism*. Cambridge University Press.

¹⁰ ‘Cosmopolitanism’ in Bell, D. (Ed.). (2010). *Ethics and world politics*. Oxford University Press. pp. 385-423;

or ‘Cosmopolitanism and Justice’ in Christiano, T., & Christman, J. (Eds.). (2009). *Contemporary debates in political philosophy* (Vol. 17). John Wiley & Sons. pp.387-407.

¹¹ Moellendorf, D. (2009). *Global inequality matters*. Springer.

in both countries (same level of experience, responsibility, effort, etc.) the salary should be the same.

Two powerful intuitions lie at the center of the view that global standards of justice should be the same as domestic ones. We can call the first one the *analogy* intuition and the second one the *luck egalitarian* intuition. On the *analogy* intuition, there is a global basic structure which is not really different from the domestic basic structure; so, whatever is true of the domestic basic structure should also be true of the global one. If egalitarian principles apply to the domestic basic structure, they should also apply to the global one. Additivists usually challenge this view by saying that *there is* a relevant difference between both structures, namely that the domestic basic structure is coercive, while the global basic structure is not. This is crucial, given that coercion is what triggers demands of justice in the first place, at least according to some versions of additivism. That the global basic structure is not coercive is usually shown by pointing at the fact that states are usually free to enter into agreements or to opt out of them. This kind of freedom does not exist domestically, where individuals have no choice but to comply with the state. The response that unitarists give to this objection is usually unanimous: opting out from international agreements is not really an option for developing countries who sign them, because the consequences of doing so would be too harsh on them¹². Accepting a bad trade deal is better than no trade deal. So, the global basic structure should also be considered coercive.

The second intuition that lies at the center of the unitary view is the *luck egalitarian* one: since citizenship is a morally arbitrary factor, it should not determine life prospects. A person who is born in Switzerland should not have better chances at succeeding in life than a citizen who is born in Haiti, just because he was born

¹² For a discussion of this point see Cohen, J., & Sabel, C. (2006). Extra rempublicam nulla justitia?. *Philosophy & Public Affairs*, 34(2), 147-175., fn. 24

in that country. This in practical terms means that both deserve, for instance, the same health benefits. The additive view would then be mistaken, because it does not correct for these inequalities and opportunities.

OUTCOME-VIEW PREMISE.

The two views described so far (i.e. the additive and the unitary) are, apparently, incompatible. However, they both rely on a basic premise. This premise is central in their account (although, of course, it is not the *only* premise that they hold). As I will argue later on, this basic premise is useless to identify some of the most pressing issues of injustice in real world. I will call this premise the “outcome-view”. If this premise is combined or supplemented with other (non-substantive) premises, then it might be possible to identify and assess these kinds of pressing issues of injustices. However, the outcome-view premise, independently, is insufficient for these purposes. Thus, the two views that I describe have the limitation that their core premise is not sufficient for the purposes of locating these kinds of injustices. On the outcome-view premise, the standards we should use to assess the morality of a domestic or global arrangement are those that apply to outcomes. By “outcomes” I mean the opposite of “process”. A process is a history of exchanges between agents, which led to a certain state of affairs. An example of a process between individuals can be the history of trade transactions in a given society; and an example of a process between states can be the history of exploitation and colonialism that some nations have been the victims of. Both of these processes led to a certain state of affairs. The former probably led to some people being richer and others poorer; and the latter probably led to some countries being richer at the expense of others. An outcome, in contrast, is the *result* of a process, and it refers to a specific moment in time. The contrast between process

and outcome has been noticed by Robert Nozick¹³ and by Rainer Forst. Nozick actually defends a procedural account of justice, in the sense that he is more interested in *how* a pattern of distribution of goods came about, instead of the inherent justice/injustice of a given pattern. Forst¹⁴, on the other hand, criticizes the dominant and mainstream view of justice (which he calls *recipient-oriented*), which is concerned with the issue of what goods individuals justly receive or deserve, on the ground that it “obscures essential aspects of justice”.¹⁵ For example, he says, “the question of how the goods to be distributed come into existence is neglected in purely goods-focused view”¹⁶. Forst proposes then to shift from a substantive based account to a more procedural one. On the outcome-view premise, in order to assess whether an outcome (e.g. a society in a given moment in time) is just or unjust, we should use moral concepts that apply to outcomes. Two such concepts are *human rights* and *equality*. Both the additivists and the unitarist defend these kinds of substantive concepts (although they disagree in the scope of their application). A possible way to apply these concepts is as follows. We look at society X in time Y. We see how wealth is distributed in society X. Suppose that in society X, a portion of the population lives below the poverty line, and a portion of it lives a very comfortable life. On the outcome-view premise, society X might be considered to be just/unjust on the grounds that it is unequal, or that it fails to respect the basic human rights of a portion of the population. The same kind of analysis can be extended to the world at large (that is, by considering all the individuals in the world, regardless of the state where they live). Defenders of the outcome-view premise might disagree on the *scope* of these standards—that is, on whether they apply within states

¹³ Robert, N. (1974). *Anarchy, State, and Utopia*. *New York basic book*.

¹⁴ Forst, R. (2014). *Justification and critique: towards a critical theory of politics*. Polity.

¹⁵ *Ibid.* Page 18

¹⁶ *Ibid.* Page 19

only, or to the world at large. But they agree that they are valid standards to assess the global institutional domain. Human rights and equality enter into the picture in a very specific way: they refer to distributional outcome that should be achieved, irrespective of the process that led to such outcome. A country/world in which wealth is unequally distributed, or in which peoples' rights to some minimal goods are not respected, would be unjust.

However, there is a crucial problem with framing the debate around these substantive notions. The crucial problem is that massive global injustices are made invisible by this framework. To be clear, the problem is not simply that participants in the debate have forgotten to include these massive injustices in their accounts, or that they have neglected them. The deep problem, rather, is that by centering the debate on outcome-view premises (that is, by discussing global justice issues in under the umbrella of terms such as 'human rights', 'equality' or others), these massive kinds of injustice have gone unnoticed. To put it in different terms, the global justice debate has been framed in such a way that it becomes useless to assess why some critical processes are unjust. This does not mean that proponents of the additive or unitary conceptions *only* endorse outcome-based concepts. For example, cosmopolitans such as Pogge, Tan, Moellendorf and others typically include procedural components in their theories, such as right to political participation. However, the debate has often been framed around substantive notions, and this suggests that a proper conception of justice should adopt a radically different approach.

What are the injustices that cannot be taken into account by the outcome-based view? Here I will mention just two. There might be others. The first one is what I will call the odious debts injustice (OD, from now on). This injustice lies in the fact that the international community is currently forcing (usually poor) states to pay off national debts that they do not have the moral obligation to pay off. This is a big financial burden for current and future generations, as these countries have to use a big portion of their national budgets to pay off these debts. The process by which the odious debts injus-

tice takes place is the following. Often, corrupt governments (both autocratic and democratic ones) borrow money from international agencies (such as the IMF and the World Bank), governments or private investors in the name of the state they supposedly represent. Once they obtain the funds, they embezzle them, use them for private purposes (i.e. their own personal non-authorized benefit), use them to oppress their own population, or to maintain themselves in power. Later on, lenders demand repayment of their loans. But this demand is made to the state in whose name the loan was incurred; not to the corrupt political leaders. Therefore, states end up bearing the burden of a debt that was fraudulently incurred in their name. Needless to say, corrupt leaders are almost never prosecuted. This is how international financial markets have been working. Since this happens on a massive scale, it involves billions of dollars. The fact that this injustice is massive becomes clear when we take into account these two important things: first, the nature of a government is irrelevant to establish the odiousness of a debt. Autocratic and democratic governments can both incur in odious debts, as public officials of those governments can borrow for odious purposes. Because of this, it is clear that the problem of odious debts has been affecting all kinds of countries, and not just autocratic ones, as some scholars have thought. Second: if a debt is odious, interest rates associated with those debts are also odious. Given that debtor countries, according to most empirical studies on debts, have been paying off more interests than capital, the problem of odious debts has multiplied. Most of the countries in Africa, for example, have paid off at least three times its debt, but the principal is still the same. This means that for debtor countries in that region, the injustice is not just that they are forced to repay the original loan, but that they have been forced to pay off the loan several times.

Since the injustice of odious debts is central in the current financial system, and people can potentially dispute their scope, or even their existence, we can be more precise in defining the conditions under which a sovereign debt is odious (or non-binding). By doing so, the reasons why the global justice debate have neglected

this kind of injustice will also become clear. A state can declare a debt non-binding when basically two conditions are satisfied. The first condition is that the public official of a state oversteps his authority as public official and uses borrowed funds for purposes for which he is clearly and obviously not authorized. We can call this the *authorization* condition. If a public official satisfies the authorization condition, he can no longer be considered to be entitled to bind the state he represents, for he does not have authority to borrow for those purposes in the first place. Notice that the issue here is not whether the public official is authorized to rule (this seems to be irrelevant to determine the odiousness of a debt), but whether the public official is authorized to spend the money for those specific purposes. Now, one might argue here that the authorization condition is too vague, because there is always disagreement about what counts as spending borrowed funds in accordance with non-authorized funds. Some people believe that a public official is overstepping his authority if he bailouts private companies in times of crisis, and others believe that he is overstepping his authority if he uses public funds to provide healthcare to the poor (as some libertarians would think). In order to respond to this objection, we can be more specific in defining the authorization condition. The decision to spend the money by a public official in a certain way would count as non-authorized if there is no possible reasonable disagreement about the fact that it is non-authorized. People from all kinds of philosophical and political conceptions would agree that a public official cannot spend money to violate the basic human rights of the population of the state he represents, or that he cannot spend public funds for his own personal interest (such as buying himself expensive horses). The underlying reason why they would consider that the agent has authority to do certain things is precisely because people delegated him authority for those things; and it would be implausible to argue that they would delegate authority to someone, so that this person violate their basic human rights, or embezzles their entrusted funds. A second condition under which

a sovereign loan is odious is that lenders are aware, or should have been aware, of the possible misuse of funds by the public officials. This condition would rule out potential arguments by the lenders that since they lent in good faith, and therefore did not know that the money was going to be misused, they are entitled to receiving back the full amount of the debt. We can call this the *due diligence* condition. This condition is satisfied when there are visible indications that a public official who borrows money will use it for non-authorized purposes. This happens when they have a clear record of corruption or oppression, or when there is something suspicious in the transaction itself. If the president of a state asks for money to build up an airport in his private residence, the chances that the transaction involves corruption are very high, even if this president has a clean record. The lender is on notice, and the good faith condition would be satisfied. When the *authorization* condition and the *good faith* condition are both *simultaneously* satisfied (i.e. when public officials use borrowed funds for non-authorized purposes, *and* the lenders knew or should have known about this), a debt is odious, and we should not consider it a state debt. If only the first condition is satisfied, the debt can also arguably be considered odious, but the case seems weaker. If only the second condition is satisfied, the debt will definitely not be odious, because even if there is something suspicious about the loan before it happens, the state will be bound if the money is spent in accordance with acceptable public purposes (such as for example building public roads or highways).

The second injustice that the outcome-view approach cannot capture is the resource curse (RC, from now on). The resource curse refers to the paradox that countries with an abundance of natural resources, like minerals and fuels; tend to have less economic growth, less democracy, and worse development outcomes than countries with fewer natural resources. The resource curse is not just an economic process, which we can statistically verify. There are also clear injustices at its core. One of them is that what makes the resource curse possible is usually the fact that dictators

of countries affected by it seize the natural resources that belong to the state they represent (and therefore to the people). Another injustice is that the international community has been granting autocratic rulers legal title to natural resources that they do not really own. This is unjust, because these rulers do not even have authority to rule in the first place.

A dictator of an African nation who sells the oil of its state has the same kind of authority as a gang which occupies a warehouse by force and sells the things that are inside it. Despite this, the international community buys, from them on an ongoing basis, and do not oppose to them keeping the proceeds.

The idea that autocratic rulers have the right to sell the natural resources is expressed in what Leif Wenar has called the “might makes right” rule¹⁷, according to which de facto rulers are recognized as being authorized to sell natural assets to the international community, simply in virtue of the fact that they are de facto rulers. As he says, “In this era, any ruler strong enough to stay in power also gained the internationally recognized legal right to abuse or neglect those he ruled, almost without limit. Which is to say that in this era, international law did not yet recognize what we now call human rights”¹⁸

As with OD, the injustice is massive. Exports of oil, diamonds, coffee, wheat and many other natural resources generate large amounts of money, and a big portion of it is generated under the rule of autocratic governments.

So why can't the outcome-view premise assess the odious debts and the resource curse issues as an injustice? The reason, I believe, is that ODs and the RC are totally *detached* from this premise. By “detached” I mean that the reasons why OD and the RC

¹⁷ Wenar, L. (2015). *Blood oil: Tyrants, violence, and the rules that run the world*. Oxford University Press.
Ch. 5

¹⁸ Wenar, Leif. *Ibid.* Page 74-75

should be considered unjust are *separate* and *independent* from the outcome-view premise. In other words, OD and the RC are unjust, but not because of human rights deficits, or lack of equality, but for some other reasons. Pogge famously made an explicit connection between the notion of human rights and OD and the RC, by stating that “an economic order is unjust when it foreseeably and avoidably gives rise to massive and severe human rights deficits”¹⁹, and by mentioning OD and the RC as clear examples of policies that give rise to human rights deficits. In his own words,

These international resource, borrowing, treaty, and arms privileges we extend to such rulers are quite advantageous to them, providing them with the money and arms they need to stay in power—often with great brutality and negligible popular support. These privileges are also quite convenient to us, securing our resource imports from poor countries irrespective of who may rule them and how badly. But *these privileges have devastating effects on the global poor* by enabling corrupt rulers to oppress them, to exclude them from the benefits of their countries’ natural resources, and to saddle them with huge debts and onerous treaty obligations²⁰.

As we can see, the kind of injustice that lies at the core of OD and RC for Pogge is mainly the fact that they contribute to human rights deficits. Let us see *how* the outcome-view premise is inadequate. Consider OD. It follows from applying the premise that we should consider them an injustice because of lack of equality or human rights deficits. However, none of these concepts are relevant in the context of OD. Lack of equality between lenders and borrowers cannot be morally relevant to determine the odiousness

¹⁹ Pogge, T. (2005). World poverty and human rights. *Ethics & International Affairs*, 19(1), 1-7.

The full text can be accessed here http://www.carnegiecouncil.org/publications/journal/19_1/symposium/5109.html

²⁰ Pogge, Thomas. *Ibid.*

of a debt. Even in a background context of full equality, there could still be odious debts. In other words, inequality is neither a necessary nor a sufficient condition for the existence of odious debts. Consider the following hypothetical case. All the states in the world have roughly the same size and GDP. On the other hand, lenders are not substantially wealthier than states, and they do not take advantage in any way of the fact that they are in a position to lend. Could there still be odious debts in the world? The answer, clearly, is “yes”. This is because what makes a debt odious is the fact that a public official overstepped his authority; not that the transaction falls short of realizing some sort of distributional outcome. When I lend money to a customer, the fact that he is poor and I am rich (or, conversely, that he is rich and I am poor) does not render the debt non-binding. What renders the debt non-binding, as I said before, is that someone borrows in the name of a third party, without proper authorization.

Likewise, a world in which the basic rights of the population are satisfied is compatible with the existence of odious debts. The fact that the global order—as Pogge and others have called it—generates human rights deficits among the global south is irrelevant to determine whether a specific loan is odious. Even in a context where the basic human right to subsistence is massively unfulfilled, a debt can be binding (if for example the public official uses the funds for legitimate purposes); and in a context where the basic human right to subsistence is largely satisfied, a debt can be non-binding (if for example a public official embezzles a portion of the borrowed funds). Something similar can be said about the RC. Briefly, equality between trading partners, or human rights deficits, is not the central issue with the RC, as what makes the RC unjust is lack of authorization to rule in the name of the state, and not a certain distributional outcome. Pogge might have other conceptual resources to condemn ODs and the RC (such as procedural ones). But he does not use them in his argumentation. Again, since he is focused on the outcome-based paradigm, he relies on substantive notions only.

To sum, the core notions of the additive and unitary conceptions of global justice—equality and human right—simply do not do any relevant work in assessing two of the most pressing issues in real world. The fact that these two conceptions have a disagreement regarding the *scope* of the application of equality and human rights does not really change things. Whether these notions have a domestic or a domestic or a global application, they are still useless to capture these injustices.

That ODs and the RC are detached from the outcome view also becomes clear when we see how the additive and unitary conceptions would treat ODs and the RC. Consider the additive conception would deal with these cases. As mentioned earlier, the additive conception defends domestic principles of distributive justice and, therefore, addresses domestic distributive inequalities. However, ODs and the RC are *global* issues that involve interactions between different kinds of agents, and they have global distributive consequences. Therefore, ODs and the RC would fall outside the domain of issues that additivists address. Consider now how defenders of the unitary conception would deal with OD's and the RC. The kind of interaction that citizens have with their own governments, and whether their governments are acting within their authority, is not a topic they deal with. In their view, there are pre-political global standards of distributive justice, and states have value only instrumentally: they are just as long as they implement these pre-political global distributive standards within their borders effectively. Since OD's and the RC are an injustice only in light of the fact that public officials have failed to properly represent their citizens (by overstepping the authority that their own citizens gave them), the unitary conception fails to take them into account. Unitarists can reply here that they do address these kinds of injustices, by taking into account their *distributive results*, globally. Since ODs and the RC generate poverty, or inequality, they would be unjust, they would say. However, the kind of injustice that ODs and the RC stand for is not a distributive one (that is, an injustice that results from failing to distribute goods in a certain way). In other words, what makes

a debt non-binding, or a sell of natural resources a theft, is not the fact that they generate poverty, or inequality, but rather an injustice that results from a specific kind of relationship between citizens and officials—namely, a relationship in which public officials fail to properly act as agents of the state. The upshot is that the set of debts and resource curses that the unitarists would consider morally problematic is different from the set that my account would generate. Moreover, the unitarists would not have enough arguments to show where exactly the injustice lies, and *why* debts are non-binding, and resources stolen. Also, unitarists cannot plausibly consider this failed relationship between officials and the state an act of injustice, because abusing domestic public authority is in principle compatible with promoting distributive justice abroad, and a scenario in which public officials are corrupt domestically but benevolent globally would be welcome by them (as it is compatible with the outcome-view premise).

The conclusion that the outcome-based view is inadequate leads us to think that what makes the OD and the RC unjust is not that they fail to satisfy some kind of distributional outcome, such as human rights or equality. What lies at the heart of these two issues, rather, is what I call the “agent-principal” distinction, which is parallel to the agent-principal distinction in private law.

Public officials can be considered “agents”, in the sense that they are supposed to be authorized to make decisions in the name of the state they represent, and these decisions are binding for the state. The claim that public officials are agents is not new in political philosophy; in fact, it has been at the core of the social contract tradition. Similarly, in private law, an agent is the person who is authorized to act in behalf of another. A CEO of a corporation is an agent, as he is entitled to act on behalf of the organization, and his decisions are binding upon the organization.

On the other hand, the population of a state can be considered the “principal”. In private law, the principal is the person in whose name the agent is authorized to act. So, the population of

the state would be the person in whose name the public officials (i.e. the agents) are authorized to act.

In light of the agent-principal distinction, we can better understand what makes OD and the RC an injustice. In the case of OD, it is not lack of equality or human rights deficits what generated the injustice, but the fact that agents did not act properly in the name of the principal. Similarly, what makes the resource curse a problem of justice is not lack of equality among trading partners, or the effects that the resource curse has on countries in terms of poverty, but the fact that a public official is not the proper agent of the state or lacks authority to sell. As in the case of debts, to understand the injustice of the curse we need to analyze the relationship between citizens and their own states, and not whether there has been a human rights deficit or unequal bargaining positions.

The agent/principal distinction can be spelled out in more specific terms, and it can be used as an independent conception of global justice. This conception would fill the gap that I mentioned previously, as it would succeed at taking into account injustices such as OD and RC.

So, what would the agent/principal approach for global justice look like?

The approach would have three different dimensions. These three dimensions, simultaneously, would set procedural standards for global agreements and transactions. The standards I propose are (i) public officials' authorization, (ii) international agents' awareness, and (iii) ratification.

(i) Public officials' authorization. Standards views of the state, defended by contractualists and others, commonly believe that offices of public officials have certain duties and prerogatives attached to them. According to these views, citizens authorize public officials to act in accordance with these duties and prerogatives, as it is the best way to uphold their rights. Although there is some disagreement about the exact content of the duties attached to public offices, we can confidently say that in general

there is some consensus that public officials can decide on public issues such as whether or not to go to war, whether or not to raise taxes (at least to certain point), decide on traffic laws and other things. It also follows from these views that public officials *cannot* do certain things, as they are totally incompatible with the duties attached to their offices. Whenever they do those things, they are no longer authorized by citizens to act or make decisions in their name. Thus, those actions or decisions are not binding for citizens. Take, for instance, the case of a public official who buys land from the state for 10% of its real value—with the complicity of friends who are public officials— and sells it a few years later for 100% of its value. Or consider the case of a public official who hires a private company to build a bridge, pays an unreasonably high price for the bridge, and later on keeps part of the proceeds of the company in his private bank account. Regardless of the view of state power that we endorse, I think it is clear that in these cases the public official clearly acted outside its competence and acted in ways that are incompatible with duties attached to his office.

(ii) Violation of international standards. Condition (i) refers to domestic injustices. But there are no *global* injustices by simply committing *domestic* injustices. However, if we combine condition (i) with condition (ii), we do obtain a global injustice. Condition (ii) is violated when an international agent (whether a bank, a state, a corporation or any other) is aware or should have been aware of the fact that it is contributing with unauthorized actions or decisions of public officials, by dealing with them in some way (e.g. trading, lending, signing agreements). By ‘contributing’ I simply mean that overstepping public authority would not have been possible without the intervention of the international agent that dealt with the public officials. Possible examples include ODs (as lenders are, or should have been aware, of the fact that public officials were going to use the funds for non-authorized purposes); and the RC, where buyers of goods are aware or should have been aware that the seller was not acting in accordance with public and legitimate public purposes. But other kinds of global

injustices become clearly visible if we combine conditions (i) and (ii). Consider for instance illicit financial flows. Illicit financial flows are illegal movements of money or capital from one country to another. A possible example is a public official who uses an anonymous shell company to transfer dirty money to a bank account in Switzerland. In cases like these ones, both conditions are also violated, as it is a case of a public official overstepping its authority and an agent being aware and contributing to this. The public official oversteps its authority by embezzling public funds, the recipient of the funds is aware or should be aware of this situation (a minimally standard of due care would reveal that funds were embezzled), and it contributes to the embezzling in the sense that without offering the possibility to keep the funds the illicit transaction would not occur.

(iii) Ratification. Someone might argue that overstepping public authority is not a moral wrong, if people actually approve the actions of public officials. Thus, in order to make the first two conditions more compelling, a third condition should be introduced: ratification. By “ratification” I mean the approval, by people of a state, of an act of public officials, where public officials lacked authority to legally bind the people of that state. The approval can have many forms, including express consent through referenda, or simply failing to oppose a decision of a public official when it is possible to do so (take, for instance, the case of a democratic government that borrows excessively from international agencies and, despite the possibility that people are aware of this and can do something to stop it, simply go on with their lives as if nothing had happened—silence, in this case, should be interpreted as ratification). The “ratification” condition is not satisfied when it is neither possible nor feasible for people to actually make their opposition to actions of public officials explicit. This typically happens in a society in which there are no basic liberties, such as autocratic governments. It also happens within democratic governments, when officials make secret decisions (typically bribing),

act by surprise or use public force to intimidate the opposition. In this context, silence cannot be interpreted as ratification.

In a nutshell, when conditions (i), (ii) and (iii) are jointly violated, international transactions and agreements will be unjust.

The new direction of the research in global justice that I suggest is to discuss global transactions in light of the agent/principal, awareness and ratification conditions. If we do this, we will be able to classify massive distributive processes as unjust. Adopting my approach would yield the result that not only national debts, the resource curse and illicit financial flows are a moral problem. Other processes, such as illicit environmental degradation caused for example by mining companies and other corporations, global corruption and others will become noticeable. This is so because they all have in common the fact that public officials, in their role as agents of the state, exceeded their authority—(for example by corruptly lowering environmental standards, or by accepting bribes), there was an international agent involved who was or should have been aware of the public officials' unauthorized actions, and people were unable to ratify the decision of public officials. On my account, the world is unjust, but not because we have not achieved equality, or because powerful nations have failed to fulfill the human rights of vulnerable people in weaker nations, but because minimal moral standards of interactions have not been satisfied.

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