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## I

Let us begin, therefore, with an analysis of the notion of distributive justice. What does a theory of distributive justice require? Any comprehensive analysis of distributive justice must speak to the following questions:

1. What sorts of entities are included within systems of distributive justice (humans, all sentient creatures, collective entities such as states or nations)?
2. Who are the rightful recipients of goods, and who is obligated to distribute these goods?
3. What should people have fair shares of (income, happiness)?
4. According to what criterion of distributive justice should goods be distributed (equality, according to desert, or the market)?<sup>2</sup>

I believe in the right of every living human being, without distinction of colour, race, sex or professed belief or opinion, to liberty, life and subsistence, to complete protection from ill-treatment, equality of opportunity in the pursuit of happiness and an equal voice in the collective government of mankind.

H. G. Wells (1940: 101)

One of the striking features of much traditional political philosophy until recently was that it assumed that principles of distributive justice should operate at the state level. That is, the conventional wisdom was, and to some extent still is, that if there are any legitimate principles of distributive justice (and some deny that there are) they should be implemented within states. Duties of distributive justice thus apply within states or nations but do not apply globally. Accordingly, those who affirmed human rights tended to affirm civil and political human rights but deny economic human rights. This chapter aims to explore whether there are global principles of distributive justice. Are there cosmopolitan principles of distributive justice and, if so, what do they prescribe? Or, does justice apply between co-nationals or between co-citizens?<sup>3</sup>

To answer these questions, the chapter begins by examining the notion of distributive justice (Section I) and then outlining several cosmopolitan perspectives on distributive justice (Sections II–VI). The remainder of the chapter considers three alternatives to these cosmopolitan conceptions, beginning with Rawls's account of international justice, focusing on his critique of cosmopolitan conceptions and his defence of an account centred on the ideal of a Society of well-ordered Peoples (VII–VIII). The chapter then examines three claims about the nature of distributive justice, all of which emphasize the moral relevance of persons' membership in nations (IX–XI). It concludes by examining two realist claims about distributive justice (XII–XIII). What the chapter seeks to do is: to motivate some support for four particular cosmopolitan principles of distributive justice; to suggest that cosmopolitan accounts, in general, can meet the objections leveled against them by their critics; and to provide a critical analysis of competing approaches.

## Distributive Justice

that resources should be distributed to persons it rejects *cosmopolitan* principles of distributive justice.

An additional question that a theory of distributive justice must address is: 'what should there be fair amounts of?' Much has been written on this question (question (3)). Many of these discussions have not been specifically addressed to matters of global justice but they may, nonetheless, be applicable to the global realm. To give some examples: one possibility might be that a theory of justice should ensure that each person has a fair share of 'resources' (Dworkin 2000: 65–119). Alternatively, one might think that principles of distributive justice should be concerned with human happiness and seek to promote welfare. A third position is canvassed by Martha Nussbaum and Amartya Sen, both of whom think that distributive principles should be concerned with peoples' capability to function in certain ways (Nussbaum 2000a: 70–110; Sen 1993).<sup>3</sup> I shall simply employ the term 'goods' to cover any of these possibilities.

A fourth question remains, namely: 'how should goods be distributed?' Should they, for example, be distributed equally? Or in a way that maximizes total happiness? Or according to who is most needy? It is an obvious point to note that there is little consensus as to which specific criterion of distributive justice should be adopted. On the other hand, it is also clear that almost everyone agrees that if principles of distributive justice apply to a group of people then they should not allow extreme poverty or starvation among the members of that group. (There are notable counter-examples, such as Nozick (1974), but they are exceptionally rare.) Utilitarians, egalitarians, and those who believe in distribution according to need, for example, may agree on some basic principles of distributive justice.

A further point remains to be made about the nature of distributive justice, namely that it differs from other types of moral relationship. What is distinctive about principles of distributive justice is that they refer to that to which people are *entitled*. We should thus recognize that there are arguments for the global redistribution of wealth which appeal not to what people can demand as a matter of justice but instead to duties of benevolence, or humanity, or charity.<sup>4</sup>

One final point: as in Chapter 3, this chapter notes that any defensible account of global rights must meet the three criteria of *determinacy*, *domestic-compatibility*, and *coherence* (cf. Chapter 3, Section 1). The package of global economic rights defended must be determinate, compatible with 'domestic' theory, and internally coherent.

## II

Having provided a conceptual analysis of the nature of distributive justice, this section and Sections III–VI explore several cosmopolitan perspectives on distributive justice. It will not be possible to address all such perspectives for the last twenty-five years have seen the publication of an enormous number of writings on global distributive justice. This chapter shall thus focus on what I take to be some

of the most influential and important theories. However, before examining these theories, it is important to make a number of preliminary points about the nature of cosmopolitan accounts of distributive justice and about the general nature of the reasoning underpinning cosmopolitan principles of distributive justice.

First, it is necessary to make some clarificatory points about the nature of cosmopolitan approaches to distributive justice. Five points in particular should be made. The first concerns *who* is entitled to the goods transferred. Here it is clear that most contemporary cosmopolitans affirm that the duties are owed to individuals (and not states). This, for example, is made clear by Beitz (1999c: 152–3) and Pogge (1994b: 202). An alternative view has been taken by Barry, who once argued that states were entitled to receive resources (1991c: 203–8; 1991d: 239–40). In recent publications, however, he rejects this position. And indeed, given cosmopolitanism's individualist assumptions, his later position is most in keeping with cosmopolitan tenets (1998: 159–60; 1999: 36–40).

Second, we should distinguish between fundamental principles and derivative principles. The former refer to the most basic moral principles whereas the latter refer to principles that are entailed by the fundamental principles (Barry 1995a: part III; Jones 1999: 117–18, 121–8). The cosmopolitans' central claim is that, at the fundamental level, all persons should be included within the scope of distributive justice. Cosmopolitans recognize, however, that these principles may sometimes best be realized if people comply with special duties to some. In other words, they recognize the possibility that although justice is fundamentally impartial between persons it may in some cases sanction policies in which people are partial to some people (their friends, say, or family members). The clearest example of this would be a form of global utilitarianism which is obviously cosmopolitan at the fundamental level (each person's utility is included and treated equally) but would sanction people having special duties to some if that best promotes total utility (Goodin 1988: sec. V; Singer 1979: 172).<sup>5</sup> As we shall see in later sections of this chapter, this point has significance and some positions that appear to reject cosmopolitanism in fact do not dispute its fundamental claims.

A third important distinction is that between what one might term modest and ambitious cosmopolitanism. The former simply makes the positive claim that there should be principles of distributive justice with a global scope. Ambitious cosmopolitanism, by contrast, makes both this positive claim and also the negative claim that persons do not have any obligations of distributive justice to fellow-nationals or fellow-citizens.<sup>6</sup> Many cosmopolitans simply make the modest claim (Nussbaum 1996: 9, 13; Sen 1996: 112–15). Barry, for example, affirms cosmopolitan principles of distributive justice but also accepts special duties of distributive justice to co-citizens (1996: 431; 1999: 59).<sup>7</sup> Others, however, do appear to make the stronger claim (Beitz 1988a: 192; 1999c: 182; Singer 1972).<sup>8</sup>

Fourth, it is important to bear in mind the distinction, invoked by Pogge and introduced in the Chapter 3, between 'institutional' and 'interactional' approaches. An institutional approach, recall, maintains that principles of justice apply to

'institutions', where Pogge employs this to refer to schemes of trade, communication, and interdependence generally. An interactional approach, by contrast, maintains that principles of justice apply even in the absence of a common institutional background.<sup>9</sup> Thus if we lived in a world without extensive global interdependence, the institutional approach would deny that there are any cosmopolitan principles of distributive justice whereas the interactional approach would state that there are. Although he has constructed this distinction, Pogge maintains that in our world such is the extent of global interdependence that the institutional view generates global principles of distributive justice (1994a: 91–8; 1998b: 504–10, esp. pp. 504–7); thus the philosophical distinction does not make any practical difference.<sup>10</sup> Even if this is true and institutional and interactional views happen in our world to converge, it is still important to base one's conclusions on a sound theory and not to hold a view based on faulty theoretical assumptions. For this reason, this chapter will evaluate the plausibility of institutionalism and interactionism (in Section III).

A final point worth making about cosmopolitan theories of distributive justice concerns the principles they affirm and the policies they prescribe. The conclusions reached will be examined later but it may be useful to present them briefly here simply to give a foretaste of the policies at stake. These are many and various. To give some examples: Pogge has defended what he terms a 'global resource dividend', where this requires that people should be taxed for using the resources in their territory and the proceeds spent on improving the poor throughout the world (1998b: 501–36; 2002b: 196–215).<sup>11</sup> Shue (1996a) and C. Jones (1999) have argued that there is a human right to subsistence. Another, more radical, proposal, put forward by Hillel Steiner, is that all persons have a natural right to an equal portion of the Earth's natural resources (1994: 235–6, 262–5, 270; 1999: 173–7).<sup>12</sup> One of the most important contributions has been made by Beitz: he maintains that Rawls's 'difference principle' (which stipulates that inequalities should be arranged to maximize the condition of the least advantaged) should be adopted at the global level (1999c: 150–3).<sup>13</sup> That is, inequalities can be justified only if they maximize the condition of the least well-off person(s) in the world. Stepping away from suggestions made by political philosophers, a number of proposals of international distributive justice have been put forward by social movements and have been discussed in the public realm. Some, for example, have campaigned for the cancellation of Third World debt. Others have proposed principles of fair trade (including, for example, demands for equal pay for equal work). A third proposal that has been mooted is James Tobin's proposed tax on international money markets. Tobin himself suggested that these should be taxed in order to discourage volatility in international financial markets but it has subsequently been adopted by others who argue that its proceeds can and should be spent on alleviating poverty (Tobin 1982: 488–94; Eichengreen, Tobin, and Wyplosz 1995). Some have argued that allowing individuals the freedom to migrate would ameliorate the severe deprivation that marks the world. A standard economics textbook, for instance, maintains that '[t]he quickest way to equalize world income distribution would be to permit free migration between countries'

(Begg, Fischer, and Dornbusch 1991: 644).<sup>14</sup> Finally, we might note a number of proposals mooted by the Commission on Global Governance (1995: 217–21). It floats the idea of taxing multinational corporations, arguing that a global tax regime is required given the number of companies not exclusively based in one country (1995: 220). It also proposes a number of '[c]harges for use of the global commons' such as charging people for: the use of flight paths, the use of the oceans, the right to dump waste (which is not so toxic that dumping should be banned), the right to fish, and the right to engage in undertakings in Antarctica (1995: 220, cf. also pp. 220–1). This multiplicity of proposals gives us some flavour of the sort of principles of distributive justice and the policy proposals that cosmopolitans have advocated.

Having elaborated further on some general aspects of the cosmopolitan approach to questions of distributive justice, I now want to introduce a general claim about the character of the arguments employed to defend cosmopolitan principles of distributive justice. Chapter 3, recall, argued, in particular, that the scope<sub>1</sub> claim: the standard justifications of rights to civil and political liberties entail that there are *human* rights to these same civil and political liberties. An analogous point can be made about distributive justice. In what follows, then, I shall be suggesting that

the scope<sub>2</sub> claim: the standard justifications of principles of distributive justice entail that there are cosmopolitan principles of distributive justice.

The latter maintains that the very logic that underpins most domestic theories of justice actually implies that these theories of distributive justice should be enacted at the global, and not (or not simply) the domestic, level. It has been defended very persuasively by Samuel Black in a penetrating analysis (1991, esp. pp. 355–7).<sup>15</sup> In the latter Black refers to what he terms 'the fallacy of *restricted universalism*' where this states that '[a] distributive theory, that ascribes rights and claims on the basis of certain universal attributes of persons, cannot at the same time restrict the grounds for those claims to a person's membership or status within a given society' (1991: 357). His point is that the arguments for distribution within the state actually justify global distribution. What follows seeks, in part, to illustrate and lend support to Black's contention.

Having presented this general claim let us now consider several prominent defences of cosmopolitan principles of distributive justice. In doing so, my aim is, following the pattern of the Chapter 3, to evaluate these arguments and, in doing so, to provide some support for the scope<sub>2</sub> claim.<sup>16</sup>

### III

It is appropriate to begin with Beitz's work. His work *Political Theory and International Relations*, first published in 1979 and republished in 1999, is the first, and remains one of the most sophisticated, cosmopolitan analyses of distributive justice (1999c). Broadly speaking, Beitz adopts Rawls's theory of distributive justice (as developed in *A Theory of Justice*) and seeks to show that,

contrary to Rawls's own claims, the logic of his theory implies that there should be cosmopolitan principles of distributive justice. Given this it is necessary to give a brief résumé of Rawls's theory of distributive justice. Rawls argues that fair principles of distributive justice are those that individuals would choose in a hypothetical contract (the 'original position') in which they are denied knowledge of their abilities and conception of the good (these are hidden behind the 'veil of ignorance'). This contract, he claims, produces fair principles of justice because people are unable to choose principles that simply suit their interests. They are forced to consider the position of each and everyone and therefore the principles they choose will be impartial ones. Rawls also argues that principles of distributive justice operate solely within systems of cooperation. Norms of justice, that is, should determine the distribution of those goods resulting from cooperation and they apply only to those who are part of that process of cooperation. This is, to use Pogge's terms, an 'institutionalist' position. Rawls then further maintains that states are reasonably self-contained systems of cooperation and so distribution should take place within states. He thus produces a domestic, rather than a global, theory of distributive justice. Rawls did, however, argue in *A Theory of Justice* that there are some appropriate global principles (though not principles of distributive justice) and to construct these he again employs the idea of a hypothetical contract. In this international hypothetical contract, representatives of (internally just) states are asked to consider what rules they would choose if they did not know what state they represented. But such parties, Rawls claims, would not choose principles of international *distributive* justice (1999c: 331–3). They would, instead, simply choose rights to self-determination and to defend themselves, the principle that states should honour any agreements they make, and some rules of *ius in bello* (1999c: 332–3).

*Version A.* Beitz starts from this theory. However, unlike Rawls who thinks that distributive justice applies within states, Beitz maintains that this theoretical framework supports cosmopolitan principles of distributive justice. Why? Beitz gives two arguments.

The first concerns natural resources. Beitz argues that the distribution of these is utterly arbitrary. Those who live in Kuwait, for example, cannot claim to be entitled to the oil reserves lying under the land. Similarly, those who live on land that has coal or iron or other valued resources have no special moral claim to them. States and nations cannot, then, claim that they ought to be the exclusive beneficiaries of the natural resources in their territory. Now if we combine this point with Rawls's international contract, we will arrive, Beitz argues, at a global principle of distributive justice specifying the distribution of natural resources. As he writes, '[n]ot knowing the resource endowments of their own societies, the parties would agree on a resource redistribution principle that would give each society a fair chance to develop just political institutions and an economy capable of satisfying its members' basic needs' (1999c: 141). Thus, the parties in Rawls's international contract would reject Rawls's own suggested principles and would

choose a global principle of distributive justice concerning natural resources (1999c: 136–43).

Beitz's second argument starts again from Rawls's institutionalist framework but argues, against Rawls, that there is a global system of cooperation. Beitz backs up this claim by drawing on a considerable amount of empirical research (1999c: 144–52). He concludes that 'international economic interdependence constitutes a scheme of social cooperation like those to which requirements of distributive justice have often been thought to apply' (1999c: 154). As a consequence, there should not be a contract at the domestic level at which participants decide how goods should be distributed within society followed by an international contract between states. Rather, there should be a single global hypothetical contract in which people are asked what principles of distributive justice they would choose if they did not know their talents or conception of the good or what society they came from. Furthermore, following Rawls, Beitz claims that individuals would choose the difference principle. So whereas Rawls's domestic contract delivers a difference principle with a domestic scope, Beitz's global contract delivers a global difference principle. The same line of reasoning, we might note, has also been employed against Rawls by Pogge in *Realizing Rawls* (1989: part III) and Thomas Scanlon (1985: 202).<sup>17</sup>

Having presented Beitz's two arguments it is important to be clear on the relationship between them. Beitz is *not* proposing both a principle of international justice concerning natural resources, on the one hand, and also a global difference principle, on the other. His position, rather, is that the second contract supersedes the first. Since there is global interdependence the approach employed in his first argument (a contract within the state followed by a contract between states) is inappropriate. The aim of his first argument is not to defend a particular principle that he thinks should be applied in the world as we know it: it is, rather, to show that, contrary to what Rawls himself claims, Rawls's own state-centric theoretical framework yields a global principle of distributive justice. Put otherwise: Beitz's first argument is primarily a critique of Rawls. His second, however, also expresses his positive view as to what principles of distributive justice should be implemented at the global level (as well as also being a critique of Rawls for failing to recognize that his theory, once conjoined with facts about the modern world, entails a global difference principle).

Beitz's view has been much criticized, especially his second argument. I shall consider two major challenges to his argument before then drawing attention to two other objections. One forceful criticism came from Barry who argued, against Beitz, that there is no global interdependence of the appropriate type. Barry argues that whilst there is international trade it is not accurate to refer to it as a scheme of mutually advantageous cooperation and since distributive justice (for Rawls) applies to schemes of mutually advantageous cooperation there are no global principles of distributive justice (1991c: 194). The key point, then, is that on Rawls's theory distributive principles apply to cooperative arrangements and, Barry maintained, that the international economy is not cooperative in this way.<sup>18</sup>

This criticism is, however, rather too swift. It is important to be clear, when appraising Beitz's (and Pogge's) argument, what the core moral claim is. Beitz escapes Barry's critique because his claim is that principles of distributive justice apply to groups of people who are interconnected in some way, even if that interconnection is not mutually beneficial or cooperative. As he writes in *Political Theory and International Relations*: 'the requirements of justice apply to institutions and practices (whether or not they are genuinely cooperative) in which social activity produces relative or absolute benefits or burdens that would not exist if the social activity did not take place' (1999c: 131). And again:

It has been argued that some poor countries' relations with the rich have actually worsened economic conditions among the poor countries' worst-off groups. This raises the question of whether interdependence must actually benefit everyone involved to give rise to questions of justice. I think the answer is clearly negative; countries A and B are involved in social cooperation even if A (a rich country) could get along without B (a poor country), but instead exploits it, while B gets nothing out of its 'cooperation' but exacerbated class divisions and Coca-Cola factories. (1999c: 150, fn. 52)

He makes explicit, then, that 'everyone need not be advantaged by the cooperative scheme in order for requirements of justice to apply' (1999c: 150, fn. 52). Beitz cannot thus be accused of assuming that global interaction is of mutual benefit to all (1999c: 152). Pogge, too, makes clear that his institutionalist position does not assume that interconnection is mutually beneficial: the claim is that distributive justice operates among those who are interconnected.<sup>19</sup> Thus construed the claim escapes Barry's objection. Its contention is simply that, given interdependence, the standard of living of people is profoundly affected by the actions of people living in other countries. There is an international economy that has deep effects on people's lives. The role of principles of distributive justice is to govern the shared framework within which interaction takes place. Beitz's (and Pogge's) claim thus still stands and Barry's critique of it is unpersuasive.

A second major objection to the argument targets the moral claim that principles of distributive justice (such as the difference principle) apply within schemes of cooperation. As was noted above, this is an 'institutionalist' claim. Here it is worth contrasting Beitz's position with that of Pogge. Pogge is what we might term an unrestricted institutionalist: he works on the assumption that *all* principles of justice apply only within systems of cooperation. Beitz, by contrast, is what we might term a restricted institutionalist: *some* principles of justice (such as the difference principle) apply only within systems of cooperation but other principles (such as his principle concerning the distribution of resources) apply even among persons who are not members of the same system of cooperation. This difference notwithstanding, both have maintained that the difference principle applies only among those who are interconnected. It is this moral premise that is most vulnerable in Beitz's and Pogge's argument against Rawls, and in what follows we shall note three reasons why an 'institutionalist' position (whether it

is unrestricted or restricted) is problematic. Setting Beitz aside for a moment, we have two good reasons to dwell on the plausibility of an institutionalist approach. First, it is relevant not only for economic rights but also for civil and political rights. An institutionalist position claims that persons have duties to protect the civil and political rights of those who are part of the same scheme (and not of those who are disconnected from them). Second, in addition to Beitz, many others ground a cosmopolitan approach to distributive justice on the assumption that distributive justice pertains only among those interconnected (and on the assumption that the world is an integrated system of interconnection). As has been seen, institutionalism is an integral feature of Pogge's conception of global justice. Furthermore, Darrel Moellendorf also argues in this way in his recent *Cosmopolitan Justice*. There, like Beitz and Pogge, he maintains both that justice applies within systems of cooperation (2002a: 30–6, 39–40, 43, 48, 53, 62, 72) and that there is a global system (2002a: 36–8).<sup>20</sup> Much rests, then, on whether we think that (some or all or no) principles of justice apply only among persons who are interconnected. There are a number of reasons why institutionalism is questionable.

1. One problem is that it is hard to see why economic interaction has any moral relevance from the point of view of distributive justice.<sup>21</sup> We can look at principles of distributive justice from two directions—from an 'entitlement' perspective (which considers the reasons why people are entitled to certain goods) and a 'duty-bearer' perspective (which considers the reasons why people are obligated to others).<sup>22</sup> If we consider the sorts of reasons given to explain why one person is entitled to certain goods it is difficult to see how and why the fact that one group of people is linked together by interaction should impact on their entitlements. Consider a world with two separate systems of interaction that have no contact but are aware of each other and suppose that one of them is prosperous whereas the other is extremely impoverished. Compare, now, two individuals—one from the prosperous system and the other from the impoverished system—who are identical in their abilities and needs. The member of the prosperous system receives more. But it is difficult to see why—concentrating on any possible and reasonable criteria for entitlement—this is fair. *Ex hypothesi*, she is not more hard-working or more gifted or more needy. In all respects they are identical (but one, namely that one is lucky to live in the prosperous society and one is not) and yet an institutionalist approach confers on one many more benefits. Moreover, it does so wholly arbitrarily because there is no ground on which the member of the prosperous society can claim to be entitled to more (Barry 1989: 239). Institutional schemes do not track any properties that would generate entitlements and as such they treat people unfairly, denying some their entitlements.<sup>23</sup>

This point can be strengthened further by considering a point commonly made by institutionalists themselves about what constitute morally arbitrary influences on people's entitlements. Moellendorf, for example, writes that '[s]ince one's place of birth is morally arbitrary, it should not affect one's life prospects

or one's access to opportunities' (2002a: 55, cf. also p. 79).<sup>24</sup> But, if we accept this (and it is a powerful line of reasoning), it causes problems for an institutionalist perspective. Can someone not equally persuasively argue that 'one's life prospects or one's access to opportunities' should not depend on 'morally arbitrary' considerations such as which associational scheme one is born into? Moellendorf's own institutionalist approach contradicts its own guiding principle by penalizing some on the basis of their 'place of birth'. If someone is born into an impoverished system that has no links with the rest of the world, Moellendorf must maintain that members of the latter have no duties of justice to the former—thereby penalizing them simply because of their 'place of birth'. Put otherwise: if it is arbitrary for some to face worse options because they come from a particular nation, is it not equally arbitrary to penalize someone for coming from a particular institutional scheme? The logic of the intuition underpinning cosmopolitanism thus subverts an institutional perspective. The first problem with an institutionalist approach, then, is that we have no reason to think that membership of an institutional scheme has moral relevance for it does not track any entitlement-creating properties.

2. The first point issues a challenge to institutionalists, asking them to provide an explanation as to why membership of institutional systems is of moral relevance and querying the possibility of there being a satisfactory explanation. Given this it is worth considering two arguments adduced in defence of institutionalism. The first, and most common, defence of institutionalism runs as follows: institutional frameworks have moral significance because they have an enormous impact on people and on their fundamental interests and options. Their moral importance stems, then, from the extent to which they affect people's ability to further their interests and to exercise their abilities and pursue their conception of the good (Rawls 1999c: 7; 2001: 55–7). Membership of global systems, then, is morally significant because of the outcomes the latter produce (C. Jones 1999: 7–8; Moellendorf 2002a: 32–3, 37–8). Let us call this the 'impact argument'.

This defence of the moral significance of institutionalism is, however, problematic because persons external to an economic-political system may also have an effect on people's interests. If one values institutions because, and to the extent that, they foster or thwart people's interests that presupposes that what matters is fostering and not thwarting people's interests. And that, in turn, shows that agents external to an institutional system may also have moral significance and responsibility if they are able to have an effect on people's interests. The impact argument then cannot vindicate institutionalism; rather it entails ascribing duties to all who can make a difference. And that constitutes an interactional position.

In addition, this line of reasoning fails to justify Beitz's claim that some principles apply without economic interdependence (an international contract containing states resulting in his natural resources principle) whereas others only apply

with it (a global original position resulting in his global difference principle). The problem is this: to assert that all states should have an equal portion of the Earth's natural resources presupposes that states can contact each other. This is necessary so that states that are over-endowed with natural resources can redistribute their resources to those that are under-endowed with natural resources. But it states can contact each other then, obviously, they can exert an effect on each other. But if this is the case then, according to the impact argument given above, there should be a global original position. And in the global original position, according to Beitz, parties will choose a global difference principle and not adopt any natural resource principle. In short, then, the necessary preconditions of the natural resource principle when combined with the above outcome-oriented argument as to why interdependence matters entail both that there should not be an international contract comprising states and also, following from this, that there is no case for Beitz's natural resources principle. The impact argument cannot then sustain Beitz's particular version of institutionalism.<sup>25</sup>

3. Given the failure of the first argument, let us consider a second argument for the claim that distributive justice applies to those linked by interaction—that given by Pogge. Pogge's argument focuses on the 'duty bearer' rather than on the 'entitlement-bearer'. He begins by invoking the distinction between positive and negative duties. He then argues that, as a matter of justice, persons have a negative duty not to sustain an unjust socio-economic structure. As he puts the point, persons have a 'negative duty not to uphold injustice, not to contribute to or profit from the unjust impoverishment of others' (2002b: 197; cf. also 1994a: 92–3; 2002b: 197–8). Membership of institutions is important then because as a member one is subject to a negative duty not to 'uphold' unjust institutions; this is, moreover, a duty that one can only have as a member of an institution. So by construing justice as requiring a negative duty not to support unjust institutional frameworks to which one belongs we arrive at the conclusion that obligations of justice apply to, and among, members of institutions. And if we add the contention that there are global institutional frameworks we arrive at the conclusion that persons are under a negative duty not to impose unjust global institutional frameworks on the rest of the world (1989: 276–8; 1994a: 92–3; 2002b: 197–8, 201, 203, 204, 210, 211).

Pogge's argument is powerful and merits more attention than I can give it here.<sup>26</sup> Here I wish only to note that it vindicates neither an unrestricted institutionalism nor Beitz's particular version. Consider the first point first. Pogge's argument cannot entail an unrestricted institutionalism for one critical reason. What it shows at most is that membership in an institutional scheme has some moral relevance because one has a negative duty not to participate in any unjust social order. However, the fact that one has a negative duty not to participate in unjust social schemes obviously does not entail that these are the only duties of justice that one has. It does not, that is, refute the proposition that persons have positive duties to all persons one can affect regardless of whether one has causal

links with them. As such, it does not vindicate an unrestricted institutionalist position.<sup>27</sup>

We might, further, note in this context that an unrestricted institutionalist position issues in some very severe conclusions. For where deprivation arises not because of people's violation of a negative duty not to sustain an unjust institutional framework but because of other variables, an unrestricted institutionalist position would offer the deprived in question no protection. So if people face deprivation, even death, because of a lack of natural resources or disease or isolation an unrestricted institutionalist cannot ensure adequate protection of these essential interests. To restrict our duties of justice to the negative duty of our not imposing unjust global economic frameworks on others, as Pogge suggests, would then allow there to be poverty, malnutrition, and misery stemming from these other variables. It would also mean that we have no duty of justice to assist those whose deprivation stems not from our imposition on them of an unfair global economic system but from the oppression and injustice of their own government. These considerations, in themselves, do not, of course, demonstrate that there are positive duties of justice to assist all who suffer because of these other variables but they do accentuate the need for there to be an argument *against* positive duties.<sup>28</sup> We might, then, say that an unrestricted institutionalist position pays too much attention to 'duty-bearers' and not enough to 'entitlement-bearers'—to the needy, the hungry, and the sick.<sup>29</sup>

What of Beitz's position? As has been emphasized above, he does not affirm unrestricted institutionalism so the last two points do not undermine his position. As we have also seen, he maintains that if there were no global interdependence then there should be a contract between states (and an interactional principle concerning natural resources) and if there were interdependence then there should be a global contract containing persons (and consequently a global difference principle). Can Pogge's argument provide support for this brand of restricted institutionalism? I do not think so. His 'negative duty' argument can establish that some (negative) duties of distributive justice apply only in circumstances of interdependence but it does not indicate why the global original position (and the global duties arising from the global difference principle) fall into this institutionalist category. It does not, that is, establish that there should be a global original position (and a global difference principle) *only if there is interdependence*. For aught that it shows there might be a global original position containing all independently of whether all participate in a global economic system. It does not, then, give us any reason to reject a position which claims, first, that there should be a global original position (and consequently a global difference principle) even if there is no interdependence and also, second, that there should be other principles of distributive justice that pertain only among members of institutional frameworks (where this second component is justified by Pogge's 'negative duty' argument). It, therefore, gives no support to the way that Beitz distinguishes between institutional principles (which apply with interdependence) and interactional ones (which apply without it). It does not, we might say, justify Beitz's cut.

*Version B.* Given the above three objections to (restricted or unrestricted) 'institutionalism', Beitz and Pogge's argument for globalizing Rawls's difference principle is unconvincing. The moral premise on which their argument depends is implausible. This, though, does not entail the rejection of the idea of a global original position and/or a global difference principle. One might defend an original position including all persons in the world *not* on the grounds considered above but simply on the grounds that persons are entitled to be included in the contract in virtue of their rights and interests as human beings. This is, indeed, precisely the position adopted by David A. J. Richards. He maintains that fair principles are ones that would be accepted in a contract containing all persons and in which people are behind a veil of ignorance (1982, esp. pp. 278–82, 289–93). He justifies the use of such a global hypothetical contract on the grounds that 'one's membership in one nation as opposed to another and the natural inequality among nations may be as morally fortuitous as any other natural fact' (1982: 290).<sup>30</sup> All persons, qua persons, are entitled to be included in the hypothetical contract. Whether everyone is a member of a common institutional scheme is simply not relevant. The same position is also defended by Beitz himself in an article published four years after *Political Theory and International Relations* which criticizes the latter's reliance on interdependence but defends the use of a global original position and the global difference principle (1983, esp. p. 595). Beitz accepts Richards's criticism of his earlier views on the moral significance of interdependence (1983: 595, fn. 8, which cites Richards (1982: 287–93)). Accordingly he reformulates his position. He claims that the morally relevant aspects of persons are the 'two essential powers of moral personality—a capacity for an effective sense of justice and a capacity to form, revise, and pursue a conception of the good' (1983: 595, cf. also pp. 593, 596).<sup>31</sup> In virtue of these universal properties all who have these properties are entitled to be represented in a global original position.<sup>32</sup>

Thus far we have considered two objections to Beitz's arguments. The first relied on a misconception. The second was more persuasive but, as we have seen, Beitz can, and does, reformulate his theory to recognize that institutionalism is implausible. Even if someone accepts this, however, it does not follow that we must agree with all of Beitz's claims. Even if his use of a global original position and a global difference principle can meet the first two objections a critic might reject his theory on at least two further grounds. The first is that, as we saw in Chapter 3, there is good reason to be sceptical of the claim that a hypothetical contract can provide independent support for principles of justice. Second, even if we accept the validity of the hypothetical contract, a critic may always question whether the parties would choose the difference principle. We should be clear, however, that such an argument is not a critique of a cosmopolitan approach for it does not deny that there would be any cosmopolitan principles of distributive justice: its denial is rather that they would choose one specific cosmopolitan principle. In other words the challenge is not to Beitz's cosmopolitanism per se.<sup>33</sup>

Having evaluated two contractarian arguments (Beitz's original argument and the later version affirmed by himself and Richards), it is worth observing that both support and illustrate the scope<sub>2</sub> claim. Consider Version A. Its central thesis is that the logic of Rawls's domestic theory of distributive justice (principles of distributive justice should apply to persons who participate in the same economic scheme) impels us to apply this theory globally. The cosmopolitan principles are not tracked on in an ad hoc way: rather they flow directly from the rationale underlying a 'domestic' theory of justice. The same is, again, true of Version B. Beitz and Richards's point is that if one grounds distribution within the state on the principle that persons have moral significance in virtue of their possession of the two moral powers one is inexorably drawn to a global application of that theory. The reason for this is that the account of 'moral personality' on which the argument rests is a universalist one, citing universal properties, and so it will necessarily yield cosmopolitan principles of justice.<sup>34</sup> To argue that what is relevant is persons' capacity for forming, revising, and pursuing conceptions of the good and having a sense of justice and yet restrict resources only to those in one's society would be to be guilty of what Black has termed 'the fallacy of restricted universalism' (1991: 357).

#### IV

Having considered several contractarian theories of global justice, let us now consider a second approach. This section outlines a number of different theories, all of which are outcome-centred and all of which maintain that there are cosmopolitan principles of distributive justice.

A useful place to start is Singer's article entitled 'Famine, Affluence and Morality' (1972: 229–43).<sup>35</sup> In the latter Singer begins with the assumption that poverty is clearly a bad (1972: 231). He then argues that persons have a duty to prevent bad things from happening. Singer distinguishes here between two versions of this claim. According to one, 'if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it' (1972: 231, my emphasis). Lest we find this too strong, Singer argues that we could accept a weaker claim, namely, 'if it is in our power to prevent something very bad from happening, without thereby sacrificing anything morally significant, we ought, morally, to do it' (1972: 231, my emphasis).

The difference between the two versions is that a person A is excused of aiding someone according to the second version if that imposes a significant moral cost on her: for A to be excused according to the first version that moral cost must be 'comparable' to the cost to the poor person that A would otherwise help. On the basis of these premises, Singer maintains, we are driven to the conclusion that affluent persons have obligations to aid the impoverished, wherever they live and whatever their nationality. There is a demanding duty of aid.<sup>36</sup>

One criticism that might be made of Singer's argument is that it equates actions with omissions. Someone might protest that not saving a person's life is not the

same as killing them. Whether this is so is open to question. But we do not have to settle this question for one may argue that even if not saving a life is not as bad as killing them it is nonetheless deeply morally wrong. To take an example that Singer uses (1972: 231), one *might* say that walking by a puddle while a child drowns in it is not as morally wrong as pushing a baby into the puddle but that walking by is seriously morally wrong. It is very hard to think of any credible reason to dispute this. So someone may still argue, along lines indebted to Singer, that we are under a duty to distribute resources to the impoverished.

A second response to Singer is that his moral scheme is extremely arduous. Two kinds of reply might be made to this objection. First, one might reply that that does not show that he is wrong. Perhaps morality is highly demanding. Moreover, one might add that a moral system which does not sanction aid is highly onerous for the weak and defenceless (Caney 1996a: 136, fn. 16; Jones 1999: 34–5).<sup>37</sup> But suppose one accepts that moral systems should not be demanding. Here one might draw on Samuel Scheffler's argument that persons have an 'agent-centred prerogative' not to promote desirable states of affairs. They have, so he argues, permission to pursue their own projects.<sup>38</sup> Drawing on this, one can revise a broadly consequentialist perspective to overcome the objection that consequentialism is too strenuous.

With this in mind, it is appropriate to draw attention to other consequentialist discussions of cosmopolitan distributive justice which do not make the same demanding claims that Singer does. A more modest conception—which does not require the sacrifice of people's own commitments—is articulated by Robert Goodin. He maintains that we have a duty to aid the vulnerable (1985: 33–144) and he argues, moreover, that this principle mandates international aid (1985: 161–9). In his view this is required by justice (1985: 159–61), although it should also be noted that he thinks it is best couched in terms of humanity (1985: 161–9, esp. pp. 161–4). The central point, though, is that he articulates a consequentialist principle that is to be adopted globally and which condemns the current world order but does not commit itself to Singer's extremism.<sup>39</sup>

Consequentialist approaches to global distributive justice can thus combat or accommodate many of the misgivings that people have about them. Moreover, on a more positive note, an important advantage of a consequentialist theory of justice is simply that it would seem extremely implausible to claim that principles of distributive justice should be utterly indifferent to the outcomes they generate. Any theory of distributive justice that ignores consequences, that is indifferent to our most important interests, is surely implausible. If, however, we do accept a modified version of consequentialism, such as Goodin's, we are thereby committed to extensive cosmopolitan principles of distributive justice.

A modified version of consequentialism is, however, not without its own difficulties. Two problems arise which derive from the modifications made to combat common concerns about maximizing brands of consequentialism. These may rescue consequentialism from some criticisms but they come at a cost for they make the resulting theory both *incomplete* and also highly *indeterminate*.

Consider the charge of incompleteness first. One common fear about a maximizing consequentialism is that it issues in deeply troubling outcomes which deny some their basic rights. This is of course a staple criticism of maximizing consequentialism. If it is a powerful concern, however, this entails that consequentialism is acceptable as long as it is modified in such a way as to disallow violations of core and basic rights.<sup>40</sup> This is an entirely plausible move but, and this is the crucial point, if this is the strategy adopted it requires a theory of rights to specify what outcomes are not allowed. Consequentialism on its own is incomplete.<sup>41</sup>

Second, non-maximizing consequentialisms such as Schefler's tend to be highly *indeterminate* and, as such, fail the first desiderata of a sound theory of global economic justice.<sup>42</sup> Nussbaum's Aristotelian approach is a case in point. She persuasively defends global principles of distributive justice that protect persons' capacity to flourish and lead fulfilling lives. Her claim is that principles of justice should be sensitive to what matters in life and that what we value is an ability to lead a decent and fulfilling life (2000a). But it is far from clear what distributive principle should be adopted. Nussbaum herself states that we should aspire to a state of affairs where everyone is above a certain 'threshold' (2000a: 12). Given the parlous state of the world this seems a sensible objective for the here and now but it does not answer the theoretical question of whether we should ideally be concerned only with ensuring all are above this minimum acceptable level. So, whilst it is right to emphasize that justice should be concerned with people's interests, it does not satisfactorily address the *distributive* question of how we should distribute 'goods' and 'bads'. One can accept that 'capabilities' matter and think that they should be maximized. Or that people should have equal amounts of them. Or some other distributive criterion. Consequentialist accounts, thus, fail to provide a convincing answer to the question of how burdens and benefits should be divided, even if they provide a good answer to the question of what we judge to be a benefit and what a burden. For these two reasons, consequentialist accounts need to be supplemented.

This leads naturally to a third distinct approach to global justice—namely those centred around the notion of rights. Before we explore the latter we should note that the scope<sub>2</sub> claim is again confirmed. The latter, recall, states that the logic underpinning most theories of distributive justice generates the conclusion that there are cosmopolitan principles of distributive justice. The point here is that the rationales underlying consequentialist theories—such as 'protecting the vulnerable'—entail a universalist or cosmopolitan conclusion (Goodin 1985: throughout but esp. pp. 11, 154). If this is true one cannot accept a consequentialist perspective without also embracing cosmopolitan principles. Furthermore, the reason why the scope<sub>2</sub> claim applies is that consequentialist theories all rely on a universalist moral personality.<sup>43</sup> What matters is a person's capacity for utility (for utilitarians) or their neediness (for need-based theories of justice) or their vulnerability (for Goodin) or their capacity to flourish (for perfectionists). In each case, the criteria invoked are capacities all persons possess and they deny the relevance of people's ethnicity, race, class, or nationality for their entitlements: as such they

each entail a theory with a cosmopolitan character. This point is indeed stressed by Goodin, Nussbaum, and Singer who emphasize that given the above criteria we can attach no fundamental moral importance to someone's nationality or citizenship (Goodin 1985: 11, 154; Nussbaum 1996: 14; Singer 1977: 42–3; Singer 1979: 171–2).

## V

Let us now consider a third cosmopolitan perspective on global justice, namely rights-based approaches. As we saw in Chapter 3, many have defended human rights to civil and political liberties. In this section I wish to examine the arguments of those who claim that persons also have a human right to certain economic resources. A number of theorists have adopted a rights-based approach. Jones (1999: ch. 3) and Shue (1996a), for example, defend the human right to subsistence. Pogge also adopts a rights-based approach and defends Articles 25 and 28 of the Universal Declaration of Human Rights (1998b: 501).<sup>44</sup> Article 25 states that 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services . . .' (Article 25 (1)). Moreover, as we saw earlier in this chapter and in the preceding chapter, Pogge defends an institutional conception of rights: in his view a just world order is one that secures people's enjoyment of their human rights and this includes economic rights. Thus he supports Article 28 which states that 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized'. In his *Democracy and the Global Order* David Held adopts a more expansive set of human rights. He invokes an ideal of autonomy and from it derives seven types of human right, three of which concern economic entitlements and hence are relevant here.<sup>45</sup> The three types of rights in question are: 'health' rights, where this includes the right to good health and a non-harmful environment (1995: 192, 194–5); 'social' rights, where this includes rights to child support and education (1995: 192, 195); and 'economic' rights, where this includes the right to a minimum wage and the opportunity to be economically independent (1995: 193, 197–8).<sup>46</sup> There is, thus, a considerable variety among rights-based accounts of global distributive justice.

1. On what basis can one defend a right to economic goods? And what goods are thus defended? To answer this question, let us start with the arguments developed by Shue. In his book *Basic Rights*, Shue defends the human right to subsistence (1996a: 22–7). He makes a conditional argument, arguing that the right to subsistence is necessary for persons to enjoy other rights. As such it is a basic right.<sup>47</sup> His key point is that one cannot possibly enjoy other rights—like the right to freedom of association, say, or free speech—unless one has enough to subsist. To use his terminology, subsistence is one of several 'inherent necessities' for the exercise of any right (1996a: 26–7). His claim is not that subsistence is

valuable as a 'mere means to an end': it is that the right to subsistence is a logically necessary component of other rights (1996a: 27). Hence it is not possible to affirm rights to free speech, conscience, and association and yet also deny the right to subsistence. To use the terminology of Chapter 3, Shue defends a logical version of *rights holism* (Chapter 3, Section VIII).

Shue's claim is an attractive one but it is open to the charge that he tries to squeeze too much content out of his argument. According to Shue, his argument shows that persons have a basic right to 'minimum economic security, or subsistence' where this comprises 'unpolluted air, unpolluted water, adequate food, adequate clothing, adequate shelter, and minimal preventive public health care' (1996a: 23). Is it, however, true that one needs not to be malnourished to exercise free speech? Or, consider diseases like rickets: can one not exercise freedom of conscience even though one is suffering from rickets? Or consider the right to a fair trial: can one not exercise this right even if one is suffering from emphysema? None of these are intended to question, in any way, the badness of emphysema or rickets but they do call into question that the right to subsistence is a logical prerequisite of other rights.<sup>48</sup>

2. Given this, one might consider a much more straightforward derivation of the right to subsistence. The argument proceeds as follows. Rights, as we saw in the preceding chapter when vindicating civil and political rights, should protect important human interests (Chapter 3, Section VI). They should, that is, not be indifferent to what people care about but should protect fundamental interests. One uncontroversial human interest is a person's interest in good health and avoiding malnutrition, starvation, and disease. Thus, given both of these assumptions, persons have a right to subsistence. This line of reasoning—given by, among others, Jones (1999: 61–2)—has much to be said for it.<sup>49</sup> That persons have an interest in avoiding starvation or malnutrition is, surely, relatively uncontroversial. Its claim about the nature of rights is also plausible. When we think about the rights people treasure most—like the right not to be tortured or the right to freedom of belief—we can see that these rights protect interests people value highly. Any credible account of people's rights reflects what is important to persons—their fundamental interests. Given then that subsistence is a fundamental interest and given this account of rights, it follows that persons have a right to subsistence.

One counter-argument against this argument, and against rights-centred accounts more generally, is that it fails to provide an adequate account of persons' duties. According to this objection, any complete account of distributive justice must explain who is duty bound to ensure that people receive their entitlements. But, the argument continues, cosmopolitan theories based on persons' rights do not, and maybe cannot, provide such an account.<sup>50</sup> If an inhabitant of Bihar, say, has a right to food whose duty is it to ensure that she receives her due?

This objection is right to emphasize that proclaiming a set of human rights but not dealing with the question of duties is inadequate. Nonetheless rights-based accounts have a reasonable response for they may reply along the following lines. For people to receive their entitlements it is important that there be political

institutions in place whose role it is to protect people's rights. We can, then, infer from this what our duties are, namely we have duties to support those institutional arrangements that would best protect people's rights.<sup>51</sup> A rights-centred account can thus provide a compelling response to this objection.

Before we move on, it is worth noting again that the  $\text{scope}_2$  claim is borne out. That is to say, the logic of Shue's argument, by invoking the logical presuppositions of other human rights, entails that all persons have such subsistence rights. The value to which it appeals—persons' civil and political human rights—is by its very nature a universal value. Similarly, the logic of Jones's argument—grounding economic rights on people's fundamental interests—necessarily entails a theory of distributive justice that ascribes economic rights to all persons.<sup>52</sup> To put the point another way, one cannot coherently employ Shue's or Jones's argument and conclude that members of nation X alone have a right to subsistence.<sup>53</sup> Moreover, as in the two preceding arguments, we can again see that the reason the  $\text{scope}_2$  claim obtains is that the arguments considered all invoke a universalist moral personality. Shue and Jones's arguments rest on the moral personality of all persons as rights bearers and attribute no moral relevance to persons' nationality or ethnicity or civic identity.<sup>54</sup>

## VI

This concludes the analysis of arguments for cosmopolitan principles of distributive justice. It is worth reiterating the point that there are numerous other interesting and important cosmopolitan accounts of distributive justice. Space, however, precludes an examination of these.<sup>55</sup>

As in Chapter 3, it is worth reflecting on the general nature of the cosmopolitan arguments before proceeding further. Several conclusions have emerged. First, as in Chapter 3, the scope claim, in this chapter the  $\text{scope}_2$  claim, has been borne out. The internal logic of the standard theories of distributive justice generates cosmopolitan principles of distributive justice. The rationale underlying contractual, consequentialist, and rights-based theories entails that there are cosmopolitan principles of distributive justice. This conclusion is important (and has therefore been emphasized in the preceding Sections III, IV, and V) for it establishes that to show that there are cosmopolitan principles of distributive justice one need not rely on any one specific theory of distributive justice. One need not choose between them to show that there should be principles of distributive justice with a global scope. In the same way that all roads are said to lead to Rome, so many (including most, if not all, standard) theories of distributive justice lead to a cosmopolitan account of the scope of distributive justice. The  $\text{scope}_2$  claim is, moreover, highly significant because if true it constitutes a contradiction in everyday moral thinking which is committed to the above lines of reasoning and yet also repudiates cosmopolitan principles of distributive justice. If the  $\text{scope}_2$  claim is true then this is incoherent and cosmopolitan arguments are supplying an immanent critique of common-sense morality.

We have also seen, second, that the scope<sub>2</sub> claim obtains because (as in Chapter 3) common to all arguments for cosmopolitan principles of distributive justice is a universalist conception of moral personality according to which persons' entitlements should not be determined by their nationality or citizenship.<sup>56</sup> The latter is an integral component in the justifications of cosmopolitan principles of distributive justice developed by contractarians (Beitz, Richards),<sup>57</sup> consequentialists (Goodin, Nussbaum, Singer), and rights-based theorists (Shue, Jones, Held, Pogge).<sup>58</sup> The point can be put in more colloquial terms: in recent years the term 'postcode lottery' has been employed in Britain to criticize the situation in which people who lived in the jurisdictions of different councils have very unequal access to health and education. This, it was said, was unfair for it is wrong that someone should get less simply because he or she lives in one place rather than another. The cosmopolitan point is simply to radicalize this and to see through its logic to the global level.<sup>59</sup>

This last point about moral personality brings out another point, namely that the arguments for cosmopolitan principles of distributive justice have all taken the form laid out by the *General Argument* for moral universalism outlined in Chapter 2, Section V. That is, all have defended a value (such as the right to subsistence) and they have, then, argued that the rationale for this applying to some (they need food) applies to all for all persons share the morally relevant property that justifies the value (in this case, needing food). To use the terms of the General Argument, the arguments above have been seeking to make good (P3): they have sought to show why the morally relevant properties that ground redistribution are properties held by all persons.

Whilst important, the significance of the scope<sub>2</sub> claim should not be overstated. In the first place, as we shall see, there are a number of arguments that dispute it. Furthermore, even if correct, the scope<sub>2</sub> claim shows that conventional theories of distributive justice generate a cosmopolitan answer to the question of the scope of distributive justice. But in doing so, they do not provide answers to other crucial questions, including, most obviously, 'what distributive principle should be adopted?' To answer such questions, one must appraise the specific theories of distributive justice on offer.

In what follows I want tentatively to put forward a number of candidates that might be worth considering. Drawing on some of the theories of distributive justice analysed, I want to suggest four principles that we might consider adopting. First, as we have seen above, there is a persuasive argument, presented by Charles Jones, to the effect that:

Principle 1: persons have a human right to subsistence.

To this we might consider adding a *second* principle, namely global equality of opportunity. This states that:

Principle 2: persons of different nations should enjoy equal opportunities: no one should face worse opportunities because of their nationality.

The reasoning for this draws straightforwardly from the reasoning for domestic equality of opportunity. If one thinks, as egalitarian liberals do, that it is unjust if persons fare worse because of their class or ethnic identity one should surely also think that it is unjust if persons fare worse because of their nationality. The logic underpinning equality of opportunity entails that it should be globalized.<sup>60</sup> Consider a world in which people's basic rights are secured but in which people of different nations face radically unequal opportunities. This world does not include starvation but it does consign some to misery and poverty and others to great wealth for no reason other than that some are Namibian, say, and that others are American. It is difficult to see why such arbitrary facts about people should determine their prospects in life. Given that it is an injustice that some face worse opportunities because of their class or their ethnicity, is it not an injustice that some face worse opportunities because of their nationality?

One might think, however, that these first two principles, although necessary, are insufficient for they are compatible with some people being paid much worse for no reason other than that they are foreign. Surely, however, how much one owes to someone else for performing a task should not vary with their race or nationality. If, however, we accept this then we should accept the following:

Principle 3: 'Everyone, without any discrimination, has the right to equal pay for equal work' (Article 23(2) of the Universal Declaration of Human Rights).

My suggestion then is that at the very minimum we should accept that people should not receive unequal remuneration for equal work. What is relevant when determining someone's pay is the quality of their work or the demand for the product but their nationality is surely simply not germane. Such a principle would no doubt condemn much international trade. Of course, in suggesting such a principle we should be aware that there are difficulties in specifying what constitutes 'equal pay'.<sup>61</sup> It may, for example, not be appropriate to provide people with the same amount of money in two different countries without examining what uses that money could be put to. For this reason it is better to talk about equal remuneration for equal work where remuneration refers to the benefits received.

One final point: even if people have a right to subsistence and equality of opportunity and equal pay, this might not be enough. It sanctions, for example, grossly unequal outcomes in which some live at just above the subsistence level. They are perhaps not naturally gifted and so while they are not denied equal opportunities and while they are paid for the work done they are, because of their lack of talent, extremely poor. For this reason one might countenance an additional principle, namely:

Principle 4: '[b]enefiting people matters more the worse off these people are' (Parfit 1998: 12; cf. further pp. 11–15).

I should stress yet again the tentative nature of these proposals. There are, however, three considerations in their favour. The first concerns the demandingness

of the principles in question. Some proposed principles of cosmopolitan justice are extremely onerous, a good case in point being Singer's global utilitarianism. The above four principles, however, are not vulnerable to this charge. At the same time, the four principles also avoid the undue minimalism of a global principle of subsistence rights which is compatible with some individuals facing poorer opportunities and with some being paid less for no reason other than their nationality. The principles in question thus strike a balance between the undue laxness of a basic rights view and the undue strenuousness of a maximizing consequentialist view (Caney 2001a: 116).

A second point in their favour is that the four principles canvassed above enjoy ecumenical appeal. That is, a variety of different ethical perspectives can agree on these principles, especially the first three. The claim that persons should receive equal remuneration for equal work, for example, is not tied to any specific controversial theory (unlike, say, the idea of a global difference principle) and is accepted by a number of different theories, ranging from desert-based to Rawlsian to consequentialist approaches. Similarly, the ideal of equality of opportunity is accepted by people adopting vastly different theoretical perspectives (Boxill 1987: 143–4).

A third point should also be made, namely that *if* the scope<sub>2</sub> claim is true then there is, in a sense, no option but to accept these principles. That is, *if* we accept these values in the domestic realm, then, *if* the scope<sub>2</sub> claim is true, we are inexorably driven to accepting them at the global level whether we want to or not. We have no choice in the matter. The principles listed above, then, are an inescapable implication of our domestic commitments. As such they, of course, meet the condition of *domestic-compatibility*. They also, we should observe, satisfy the two other criteria. They are *determinate* and internally *coherent*.

Having examined various cosmopolitan theories of distributive justice, the rest of this chapter considers alternative perspectives on the nature of distributive justice. Prior to doing so it is worth noting that to dispute a cosmopolitan perspective, and the scope<sub>2</sub> claim it affirms, critics must show that there is some fundamental difference between the domestic realm (where such principles of justice may apply) and the global realm (where they may not). To use the terminology introduced in Chapter 1, critics must engage in level-1 analysis and challenge cosmopolitanism's level-1 assumptions about the relationship between domestic and global political theory. As we have seen above, the cosmopolitan claim is that the principles of distributive justice that are standardly employed in the domestic realm should inform the global realm. This is precisely what critics of cosmopolitanism, such as Miller, challenge (2000c: 174). And to ground this challenge, critics must be able to identify ways in which the global domain is fundamentally different in character to the domestic domain and hence that we cannot simply apply domestic theories of distributive justice to the world at large.<sup>62</sup> By undermining cosmopolitanism's level-1 analysis and presuppositions, a critic could then, if he were successful, establish that the scope<sub>2</sub> claim is false. In doing so, the critic would, note, meet the condition of *domestic-compatibility*. That is,

he would be explaining why his 'domestic' principles and his 'global' principles are consistent even though they are different because his point is that the two realms are disanalogous in an ethically significant way.<sup>63</sup>

## VII

This chapter has, thus far, considered the case for cosmopolitan principles of distributive justice. There are, however, many counter-arguments and alternative conceptions of distributive justice. As was noted earlier, Rawls did very briefly outline some principles of international justice in *A Theory of Justice*. Having derived justice within the state he employs a second hypothetical contract at which representatives of states choose, from behind a veil of ignorance, principles to govern international politics. Furthermore, as was stressed earlier, Rawls argues that such representatives would not choose any principles of international distribution (1999c: 331–3). Rawls's most sophisticated treatment of distributive matter is, however, in *The Law of Peoples* and so in Sections VIII and IX, I want to examine two critiques of cosmopolitan distributive justice developed in this work.<sup>64</sup>

Since Rawls's theory was described at length in Chapter 3, it is both unnecessary and undesirable to expound his approach to international justice at great length. Rather this section shall restate the key features of his theory and relay their application to questions of *distributive justice*. As we saw in the preceding chapter there are four key features of Rawls's argument. First: his typology of societies. Rawls distinguishes between five kinds of regime—liberal peoples, decent hierarchical peoples, outlaw states, societies with unfavourable conditions, and benevolent absolutisms (1999b: 4). A second aspect of his theory is its method. Rawls maintains that just principles are those that liberal and decent societies will endorse. A third feature of his approach is its fundamental normative idea: Rawls adopts the method he does to model the idea of toleration. Toleration, he argues, requires that egalitarian liberals do not foist their values on non-liberal peoples (1999b: 18–19, 59–60, 68, 82–5, 121–3). There are some societies that, although not liberal, are morally adequate and should be respected (1999b: 59–60, 67–80, 82–4). Finally, there are Rawls's principles of international justice. Using his contractarian method, Rawls derives eight principles of international justice (1999b: 37) (listed in Chapter 3, Section VIII).

What bearing does this have for distributive justice? Rawls makes three claims.

First, he makes the negative claim that cosmopolitan principles of distributive justice are inappropriate because they exhibit intolerance toward non-liberal societies. Rawls thus rejects the account of cosmopolitan distributive justice advanced in Sections II–VI. He would also, note, reject some of the economic proposals contained in the Millennium Development Goals agreed at the United Nations Millennium Summit in September 2000. He would, for instance, reject the third Millennium Goal where this aims to 'promote gender equality and empower women'. Its aspiration to 'eliminate gender disparity in primary and secondary education' ([www.un.org/millenniumgoals/index.shtml](http://www.un.org/millenniumgoals/index.shtml)) would, in virtue

of its commitment to sexual equality, be deemed unacceptably liberal. Second, on a positive level: all persons have some basic economic rights and Rawls accepts Shue's account of basic rights. Rawls's sixth principle of international justice, thus, affirms that '[p]eoples are to honor human rights' (1999b: 37). Elsewhere he elaborates on the content of these human rights arguing that persons have a human right 'to the means of subsistence' and to 'freedom from slavery, serfdom, and forced occupation' (1999b: 65).<sup>65</sup> Third, Rawls argues that the parties would accept a duty of assistance to burdened societies. His eighth principle of international justice affirms that '[p]eoples have a duty to assist other peoples living under unfavourable conditions that prevent their having a just or decent political and social regime' (1999b: 37).<sup>66</sup> This requires a little more elaboration. The thought underlying Rawls's reasoning here is that there are some societies that would be well ordered were it not for adverse conditions. Thus liberal and decent hierarchical societies have a duty to enable them to become well-ordered. This duty generates three guidelines. First, Rawls says that wealth is not an important variable (1999b: 106–7). Rather, and this is his second guideline, what matters for attaining a decent regime is having an appropriate culture (1999b: 108–11). Third, he adds that the aim of the duty of assistance is to enable burdened societies to become members of the Society of well-ordered Peoples' (1999b: 111–12).

Prior to evaluating Rawls's argument we should note that, as with other challenges to cosmopolitan theories of distributive justice, Rawls's argument provides an account and explanation of how the domestic realm (which in liberal societies can be regulated by liberal principles) differs in morally significant ways from the global realm (which may not). It thereby constitutes a critique of cosmopolitans' level-1 analysis of the relationship between domestic and global political theory. The guiding principle is that where there is a shared commitment to egalitarian liberal ideals (as there is in some societies) then they may apply but that where there is no such shared commitment (as is the case in the global realm) such ideals may not apply (Caney 2001a: 128). The scope<sub>2</sub> claim can thus be rebutted because the domestic realm is morally disanalogous to the global realm: as such, principles that should be applied in the former should not be applied in the latter and cosmopolitanism's level-1 analysis is flawed.

How satisfactory is Rawls's treatment of distributive justice?<sup>67</sup> Does it represent a more compelling vision than the cosmopolitan ideal developed by thinkers like Beitz and Pogge?<sup>68</sup> I think not. Several questions about the plausibility of a people-based contractarian theory have been raised in Chapter 3, and it is worth noting briefly that they also undermine his analysis of global distributive justice. The objections leveled, recall, include the following:

1. Rawls's use of peoples is morally questionable because peoples are never homogeneous and hence what peoples may agree to may include policies that are unfair to individuals and minorities (Buchanan 2000: 697–8 and also 716–20; Caney 2002a: 99–104; Kuper 2000: 644, 648–52; Tan 2000: 28–45; Tesón 1998: 113–14).

2. Rawls's argument fails to derive human rights because the two societies he endorses are pre-programmed to endorse human rights (Beitz 2000: 685–6; Caney 2001a: 131; P. Jones 1996: 193–5; Mason 2000: 186).
3. Rawls's position is ad hoc: he accepts some basic rights but not others and it is not clear on what basis he does so. His theory thus violates the criterion of *determinacy* (Beitz 2000: 686–7; Caney 2001a: 131; McCarthy 1997: 212; Moellendorf 2002a: 10–14, 18, 28–9).
4. There is an incoherence in his thought for the arguments he gives for civil and political liberties entail that there should be global civil and political liberties. His theory thus violates the criterion of *domestic-compatibility* (Beitz 1983: 596; Caney 2002a: 106–7; Kuper 2000: 649–52, esp. pp. 651–2; Pogge 2001b: 247; Tan 2000: 28–32, cf. also pp. 32–3; Tesón 1998: 111).
5. There is an additional incoherence in his thought for he rejects some proposed human rights that are a precondition of other human rights that he affirms (Kuper 2000: 663–4). His theory thus violates the criterion of *coherence*.

These points (or variants of them) also vitiate his treatment of international distributive justice. (1) targets Rawls's method and hence, of course, is as forceful a critique of Rawls's treatment of international distributive justice as it is of his treatment of international civil and political justice. If we turn to (2) and (3) we can see that analogous criticisms can be made of Rawls's treatment of distributive justice. Along the lines of (2), we may note that Rawls stipulates that decent societies are committed to certain economic rights including the right of subsistence: hence it is no surprise that they accept the sixth principle affirming precisely these rights. His argument for the basic economic rights he affirms thus presupposes the answers that it is supposed to yield.

A variant on (3) can also be levelled against Rawls's treatment of economic rights. Rawls rejects some international principles (such as equality of opportunity) but affirms others (such as the right to subsistence) without persuasively explaining where he draws the line and why. Furthermore, the idea which he appeals to in order to derive the contents of these basic rights—the notion of a 'system of social cooperation' (1999b: 68)—is no more helpful in telling us what economic human rights we have than it is in telling us what civil and political human rights we have. Can one not argue that a truly cooperative system would grant each and every member equal opportunities and would preclude the massive inequalities that Rawls's scheme would permit?

If we turn now to (4) we can see that an analogous point can be made against Rawls's package of economic rights. This, indeed, is, in part, the point made earlier in Sections II–VI. The ideas that motivate Rawls's theory of justice as fairness entail the global application of his ideas. The idea that persons should not fare worse in life because of their social identity (such as their ethnic or class identity) is, of course, an idea central to Rawls's domestic political theory. But, then, as we have seen (and as many of Rawls's cosmopolitan critics have argued), if this is right then it is equally objectionable that persons fare worse in life because of

their national or civic identity<sup>68</sup> and yet this is exactly what Rawls's Society of well-ordered Peoples would entail. This, of course, is the point made by the scope<sub>2</sub> claim.

Consider, finally, objection (5). A version of this also surfaces in Rawls's economic principles. The problem takes the form of a trilemma. Rawls affirms a human right to subsistence; he also rejects the notion of there being a human right to democratic government. And yet there is good reason to think that the former right can be realized only if there is democratic government. Rawls's position on this is somewhat curious for he refers directly to Sen's well-known work on how democracies prevent famines (Rawls 1999b: 109). He explicitly refers to 'the success of *democratic regimes* in coping with poverty and hunger' (1999b: 109, fn. 35, emphasis added). But this gives us no reason to think, as he appears to, that decent well-ordered societies will also for Sen-like reasons prevent famine because he is quite emphatic that decent peoples may be thoroughly undemocratic in their decision-making processes.

Suppose, however, we set these problems to one side. There are two further problems with Rawls's theory, problems that are particular to his account of distributive justice and which do not concern his theory as a whole. The first concerns his rejection of more expansive forms of global redistribution. Why would peoples not agree to more global redistribution? One reason is that Rawls defines peoples in such a way that they will not (1999b: 29, 32, 34, 44–5). But to this we might ask, as Pogge has done, why we should assume that liberal and decent societies have no interest whatsoever in having more resources rather than less (1994b: 208–11)? Why, in particular, would members of liberal societies want more primary goods in the domestic contract but not want more primary goods in the international contract (Pogge 1994b: 210–11; Wenar 2001: 88)? Furthermore, even if one works within the motivations that Rawls specifies, there are three reasons why the societies in a Rawlsian international contract would choose greater international redistribution.<sup>69</sup> First, Rawls says that the parties wish to preserve their equal standing (1999b: 115); however, as Beitz and Buchanan argue, given that genuine independence requires material wealth the parties can argue that political equality and independence require redistribution (Beitz 2000: 693–4; Buchanan 2000: 708–10, 711–15). Second, Rawls says that the parties wish to protect their self-respect (1999b: 114); again, however, this can justify global redistribution for, as Beitz, Buchanan, and Wenar argue, international inequalities can corrode self-respect (Beitz 2000: 693; Buchanan 2000: 708–9; Wenar 2001: 88). Consider, finally, Rawls's account of stability. He maintains that the parties will be concerned about stability and that this will be secured only if the societies in the Society of Peoples each enjoy 'success' where success includes 'the decent economic well-being of all its people' (1999b: 45). Again, however, given this, the parties will ensure that distributive principles are in place so that no society is disaffected with the Society of Peoples because of its low (absolute or relative) standard of living. In short, then, Rawls's argument is vulnerable to an immanent critique for even operating within his parameters there are

cogent (Rawlsian) arguments for embracing much more egalitarian principles of global justice than the meagre ones that he countenances. Using a terminology introduced earlier in this Chapter (Section I), one might say that Rawls's own theory should lead him to accept *global* principles of distributive justice even if it does not lead him to accept *cosmopolitan* principles of distributive justice.

A second vulnerable aspect of Rawls's treatment of international distributive justice concerns his account of the nature of the duties to burdened societies. Rawls, as we have seen, thinks that wealth is not of critical importance and hence wealthy liberal and decent societies are not required to redistribute it. Rawls's analysis is, however, problematic in a number of respects. First, while his empirical claim about the insignificance of natural resources may be true, it is a bold and sweeping claim and we do need more empirical confirmation for his contention than he supplies. Rawls cites one book in support of his claim, namely David Landes (1998) *The Wealth and Poverty of Nations* (Rawls 1999b: 117, fn. 51). However, for all his emphasis on culture, even Landes explicitly disavows any 'monocausal explanations' of growth, stating that 'culture does not stand alone' (1998: 517).<sup>70</sup> Second, Rawls's claim that domestic factors and not international factors are the prime cause of a society's development can be correct only if the former are unaffected by the latter. But as both Beitz and Pogge observe, a society's political structure and culture may be greatly affected by international factors (Beitz 1999a: 279, and more generally, pp. 279–80; Beitz 1999b: 525, and more generally, pp. 524–6; Pogge 1994b: 213–14). To argue that the political structure of a society is the prime determinant of economic growth is therefore highly questionable. Third, and relatedly, in his analysis of the factors influencing a people's standard of living, Rawls concentrates almost exclusively on domestic factors (like the culture of a country) or physical factors (like a country's natural resources). Accordingly, as almost all commentators on *The Law of Peoples* observe, he fails to recognize the tremendous role played by transnational phenomena.<sup>71</sup>

## VIII

Having considered one Rawlsian challenge to cosmopolitan accounts of distributive justice, it is worth considering a second. According to this second argument, cosmopolitan principles of the sort discussed earlier are mistaken because they fail to recognize the implications of the moral significance of a people's having autonomy. The thought here is that where a people is self-governing then it, and not external bodies, is responsible for ensuring that its members receive their just entitlements. This argument is developed by Rawls in *The Law of Peoples* where he gives two examples to illustrate his contention. In one example, there are two regimes: one opts to industrialize thereby augmenting its wealth and the other decides not to, preferring to stay in a pastoral state. The second example also comprises two regimes: one enacts a restrictive population programme, limiting population growth markedly, and one does not. The suggestion in both cases is that the society which industrialized, and which therefore has more wealth, and

the society that adopted a prudent population policy, and which therefore also has more wealth per person, should not have to bale out those who pursued alternative policies (1999b: 117–18). Cosmopolitan principles of justice would, however, demand that the wealthy always redistribute their wealth in this way and hence should be rejected. Much the same argument, we should note, has been given by David Miller who similarly argues that societies (in his case nations) should take responsibility for their choices (1995: 108; 1999: 193–7).<sup>72</sup>

This critique is, however, unpersuasive. In the first place, it is extremely unjust toward individuals. Why should a member of a Third World country be economically disadvantaged because of a decision that the political elite in that country made and with which they disagreed? The intuition doing the work in Rawls's and Miller's argument is surely that we think that individuals should be responsible for the choices they make and that others are not duty bound to assist someone who has chosen poorly. But this applies to individuals and it would seem highly unjust to disadvantage an individual because of a decision that he or she did not take but that some, possibly unelected, politicians took.<sup>73</sup> It is worth emphasizing here that Rawls applies this example to decent hierarchical societies, that is societies that are not democratic, and hence those who suffer the penalty can in no sense be said to have brought it upon themselves or be responsible for their condition.

A second point worth noting is that the intuition underlying the argument—namely that with the right of self-determination comes the responsibility—applies only in certain contexts and to certain principles.<sup>74</sup> Suppose we ignore the first objection and treat nations/peoples/states as akin to individuals. We believe that they should take responsibility within a just *basic structure*. Indeed Rawls forcefully makes this point (1993b: 189–90).<sup>75</sup> It follows that the critique of cosmopolitanism under scrutiny is incomplete for it is silent on the question of what constitutes a fair world basic structure (Caney 2000a: 143–4; 2002a: 116–17; Pogge 2001a: 16–17; 2001b: 250–3). And it therefore fails to show what is wrong with cosmopolitan accounts of the world basic structure.

A third problem with the argument in question concerns the nature of the position it is criticizing. Both Rawls and Miller maintain that this argument subverts egalitarian conceptions of cosmopolitanism and both also affirm some minimal economic rights (such as the right to subsistence). The puzzling feature about their position is their belief that their argument tells against the former (egalitarian principles) but not against the latter (some basic rights). Consider the society that does not adopt a population policy and suppose that there is, as a result, such a growth in population that the regime cannot afford to feed its own citizens. Now, on the one hand, Rawls affirms a human right to subsistence and this would imply that outside agencies should assist (1999b: 65). On the other hand, the force of his argument against egalitarian conceptions applies just as much here: where peoples are responsible they must be accountable for the actions they take and hence no external support is justified.<sup>76</sup> Exactly the same point may be made against Miller for he too criticizes egalitarian cosmopolitans and

he too embraces the basic right to subsistence (1999: 198–200; for further pertinent discussion cf. pp. 198–204). Miller and Rawls must thus: *either* abandon their argument against egalitarian conceptions of cosmopolitan distributive justice, or abandon their commitment to any economic human rights, or provide some explanation as to why their economic human rights are immune to their argument whereas other proposed economic human rights should be rejected.<sup>77</sup>

## IX

Section VIII examined one challenge to a cosmopolitan approach that arose if one took seriously the autonomy of nations. In this section I want to consider a second misgiving that one might have about cosmopolitan principles of distributive justice that also faults them by appealing to nationalist theory. The argument runs as follows: principles of distributive justice, if they are to be put into practice, must be able to motivate people to comply with them. But, the argument continues, people are not and cannot be motivated to act on cosmopolitan principles of distributive justice. They are willing to be taxed so that those with whom they identify, their fellow-nationals, may benefit but they are not willing to be taxed for the benefit of foreigners. Before appraising this argument it is worth noting that it can take two slightly different versions. On one version (hereafter the *individualistic* version) it is a claim about the obligations of individuals. Individuals, it is claimed, will not be swayed to act on cosmopolitan lines and hence lack an obligation to do so. Ethical obligations, it is argued, should follow our sentiments and inclinations and these are local in character.<sup>78</sup> On a second version of the argument (hereafter the *societal* version) it is a claim about the necessary preconditions of a scheme of distributive justice. The thought here is that a system of justice, to be successfully implemented, must be one with which the participants identify. Without social support a distributive scheme will collapse. It then adds that people bond with fellow nationals and can identify with them: the requisite identification exists at the national level but does not exist at the supra-national level. Given this, the argument continues, supra-national schemes of distributive justice (whether at the global level or at the level of regions like the European community) cannot work. Since cosmopolitan schemes cannot command the requisite social support they are not feasible and should be abandoned.<sup>79</sup> To sum up then: the first version maintains that an individual's obligations are only to those with whom he or she identifies and that persons identify only with fellow nationals; and the second version makes a sociological claim about the feasibility of schemes of distributive justice, arguing that these cannot be applied at the supra-national level because the necessary level of identification does not exist.

Both variants of the argument, note, have the right structure to challenge a wholly cosmopolitan approach (and its level-1 assumptions about the relationship between domestic and global political theory). For both identify a property (social identification) that, they claim, must be present for principles to apply and both, moreover, claim that this property exists at the national level (hence

there can be principles of distributive justice within the nation) but is absent at the global level (hence there can be no cosmopolitan principles of distributive justice). As such, the arguments are of the right type to undermine cosmopolitanism's level-1 analysis and to refute the scope<sub>2</sub> claim. If they can show that the domestic realm is different from the global in a morally significant way then they can show that it is inappropriate to argue, as the scope<sub>2</sub> claim does, that the principles we think pertain at the domestic level should be applied globally. By doing so they can also meet the criterion of *domestic-compatibility* because they can explain how one can consistently adopt certain principles at the domestic level and yet not adopt them at the global level.

How plausible are these related lines of reasoning? Let us consider the *individualistic* version first. This is the weaker of the two versions. It rests on the pivotal assumption that one has obligations only if one is motivated to comply with them but this is a highly dubious assumption. It entails the implausible conclusion that one can escape one's obligations to others if one lacks any inclination to perform them and this is hard to accept.<sup>80</sup> This point undermines the *individualistic* version but does not refute the *societal* version.

However, three points might be made against the *societal* version. First, it might be argued that it overstates the necessity of 'national' sentiments. There are, for example, instances of multinational states that appear quite workable. The members can be united by factors other than a common national identity. A common citizenship may, for example, unite people to support a system of distributive justice. If this is so, then the claim that schemes of distributive justice must be underpinned by a common sense of national unity is questionable. The key point is that there are forms of social unity other than national identity (Mason 1995: 243–52; 1999: 261–86; 2000: ch. 5, esp. pp. 116, 118–20, 127–42). Furthermore, as Daniel Weinstock has pointed out, restricting distribution to fellow-nationals is invidious in a multinational society for it means excluding co-citizens who are not co-nationals (1996: 92). Moreover, people (such as immigrants) may identify more with co-nationals back home rather than fellow citizens (1996: 93).<sup>81</sup>

Second, one might note, on an *ad hominem* level, that one of the leading protagonists of this argument, namely Miller himself, advances some principles of international distributive justice. Miller defends three principles of international justice. These include: first, a principle of basic human rights that follows Shue's account of basic rights; second, a principle of non-exploitation that prohibits people from exploiting foreigners; and, third, a principle requiring that each national community has the opportunity to acquire the resources necessary for it to be self-determining (2000c: 174–8).<sup>82</sup> If he is to fault the cosmopolitan approach Miller must thus either abandon any international principles or he must explain why compliance with his three principles is possible whereas compliance with other cosmopolitan inspired programmes is not.

These two responses, however, do not meet the objection leveled against cosmopolitan schemes of distributive justice. The first point shows that people may be motivated by a common civic identity but this does not show the viability of

a cosmopolitan system of distribution and the second point shows, if true, that some adherents of the argument perhaps contradict themselves. Neither helps vindicate the cosmopolitan approach. To do the latter, cosmopolitans might adopt a third response. They might, for example, quite reasonably dispute the model of human motivation this argument employs. The argument in question presupposes an ahistorical and unchanging account of human nature, assuming that we are necessarily only willing to make sacrifices for fellow-nationals. As Goodin and others have pointed out, however, such an account is too static and neglects the fact that people's willingness to adhere to principles depends considerably on political institutions, the behaviour of others, and prevalent social norms.<sup>83</sup> After all, in earlier periods in history the idea that people would identify with and be willing to make sacrifices for a group of 58 million would have seemed quite fantastic.<sup>84</sup> It would therefore be erroneous simply to make the *a priori* assumption that the motivations people currently have are invariant. Relatedly, the argument in question relies on an impoverished moral psychology, assuming that people are motivated solely by loyalties and attachments to members of their community. It thereby underestimates peoples' ability to be motivated by their moral values.<sup>85</sup> People might, for example, seek to combat something (like apartheid or landmines or cruelty to animals or child abuse) not because they necessarily share the same identity as the oppressed (or feel themselves to be part of the same community) but because of their commitment to principles of universal rights. Given this, however, it seems reasonable to suggest, against Miller (1995: 57–8), that people may be motivated by cosmopolitan distributive ideals. Consider, in this light, Falk's claim that the current world order is a form of 'global apartheid' and is analogous in morally relevant respects to South African apartheid (1995: 49–55). It does not seem far fetched to me to think that showing that this analogy holds may affect people's behaviour. By employing analogies like this, cosmopolitan ideals can harness already existing powerful motivations.<sup>86</sup>

## X

Sections VIII and IX have examined two nationalist points. This section considers a third claim advanced by nationalists in criticism of cosmopolitan schemes of distributive justice. The claim in question maintains that what was termed above ambitious cosmopolitanism (Section II) is incorrect for persons have special obligations of distributive justice to their fellow nationals. This position is consistent with thinking that persons have some obligations of distributive justice to all but what it insists on is that persons have special duties to the other members of their nation. A wholly cosmopolitan outlook, it charges, is faulty because it allows only agent-neutral values in and overlooks the ties that come with social roles and membership in communities. Furthermore, it should be stressed, these are ties of distributive justice. The claim is that membership of a nation generates duties to one's fellow nationals and also entitlements one can claim of them.<sup>87</sup> Why should

1. *The intuitive argument.* One argument for this claim draws directly on people's moral convictions. It makes two claims. First, it makes the claim that correct moral principles are those that cohere with people's intuitions. Second, it then claims that people have a strong intuition that one should favour one's fellow nationals over foreigners. It would, so the argument runs, be counter-intuitive to adopt a purely agent-neutral approach that treats foreigners and nationals identically. One has a duty to prioritize the interests of fellow nationals (Miller 2000a: 25–6, 39–40; Tamir 1993: 99–102).

This argument is vulnerable to a number of objections. First, one can call into question its method. Why should one take people's intuitions as authoritative (Freeman 1994: 82–3; C. Jones 1996: 76–7)? In particular, why should one take them as authoritative given that they are profoundly shaped by a nationalist political scheme (Weinstock 1999: 519–24)?

Furthermore, even if we rely on intuitions for our moral conclusions, it is not straightforwardly obvious that people do think that persons have special duties to their fellow nationals. What is plausible is the claim that persons have special ties to morally valuable communities. In other words not any kind of social organization generates special obligations and a more plausible view is that membership of a social body entails obligations to fellow members only if it possesses moral value and is not unjust (Caney 1996a). Accordingly, membership of a nation can entail special duties to fellow nationals only if that nation is a morally satisfactory form of human association.<sup>88</sup>

Third, and finally, even if we think that persons have special obligations to fellow nationals we cannot infer from this that they are obligations of distributive justice.<sup>89</sup> The latter are one specific kind of obligation. The intuitive argument thus has to explain why these obligations are ones that people can claim as a matter of justice. Furthermore, this is a difficult task for as we saw earlier (and as the scope<sub>2</sub> claim shows) the logic of most theories of distributive justice ascribe no role to people's social identities. They hold that resources should be distributed according to universal properties such as need or desert but claims like 'she is British' are not good reasons.

In the light of this, what we need if we are to accept the claim that persons have special obligations of justice to fellow nationals is an argument that can show not just that persons have obligations to fellow nationals but that these are obligations of distributive justice.

2. *The reciprocity argument.* The next argument to be considered is better able to meet these criteria. What I have termed the 'reciprocity' argument maintains that persons who engage in a system of cooperation acquire special rights to the goods produced by that cooperation and have entitlements to these goods that non-participants lack (Rawls 1999c: 96–8, 301–8). The argument then adds, on an empirical level, that nations constitute systems of social cooperation. Hence fellow nationals have special rights and special duties acquired because of their membership of a nation. This line of reasoning is given by Jeff McMahan (1997: 129) and

Miller (1995: 65–7). This mode of argument, note, meets the condition specified at the end of Section VI: it identifies a property that exists within nations (social cooperation) that does not exist at the global level. Furthermore, it relies on a common conception of distributive justice and hence meets the condition that undermined the last argument.

One critical response to this argument maintains that it gains force by eliding the distinction between nations and states (Barry 1996: 431). The suggestion here is that this argument is more plausible as a defence of the claim that citizens have special obligations to fellow citizens because as members of the same political regime they participate in a system of cooperation. Richard Dagger similarly defends special obligations to fellow citizens along these lines. In his discussion and justification of what he terms 'the *argument from reciprocity*' he defends special obligations to fellow citizens on the grounds that a *state* is a cooperative system (1997: 46–60, esp. pp. 46–8, 59–60).

Whilst this might be a more plausible argument, the claim that persons have special obligations to fellow nationals (or fellow citizens) because the nation (or state) is a system of cooperation encounters a number of problems. The first problem is an empirical one, namely that the claim that either nations or states comprise schemes of reciprocity is hard to sustain. In the modern world, members of nations are scattered throughout the world: they cooperate and interact with members of other nations and often have no links with their own co-nationals. British nationals for example often work abroad and foreigners often work in Britain. It is thus not credible to claim that the British economy is a system of social cooperation between the members of one nation (Mason 1997: 433–4, 2000: 104).

To this we should add, second, that this argument has no force when a social institution is not cooperative. As Dagger rightly points out, this argument cannot ground special duties in societies that are coercive or exploitative (1997: 59–60).

Finally, as a number of critics have noted, this argument denies rights to those unable to take part in systems of cooperation. This has two implications. First, it cannot ground obligations to those fellow nationals (or fellow citizens) who are mentally or physically disabled or indeed to future generations so it does not show that persons have obligations of distributive justice to *all* fellow nationals (or *all* fellow citizens). It does not then support the nationalist claim under scrutiny (nor the statist revision offered by Dagger). Second, by claiming that persons do not owe obligations of distributive justice to the handicapped it loses credibility as a theory of distributive justice (Goodin 1998: sec. IV, p. 678; Tamir 1993: 120). Neither of the two arguments is, therefore, persuasive.

But it does take exception to the claim that everyone has the same duties to ensure that people receive their just entitlements. It makes the following claim: the *allocation of duty* thesis: nations have special duties to ensure that their members receive their just entitlements as defined by a cosmopolitan theory of distributive justice.

Miller, for example, defends this claim in *On Nationality*. He agrees with Shue's (cosmopolitan) claim that individuals have a human right to liberty, security, and subsistence but he maintains that the duty to ensure that people receive their entitlements belongs mainly to fellow nationals (1995: 75–7; cf. also 1999: 200, 202). Again this illustrates the point that the contrast between cosmopolitanism and nationalism is more complex than is normally imagined since Miller's claim does not challenge the cosmopolitan affirmation of rights. Furthermore, the claim that not everyone has a duty to ensure that other people receive their cosmopolitan entitlements is also made by cosmopolitans like Shue—although he would not claim that nations have special duties to protect their own members' rights (1988: 687–704).

Miller's claim that the duties to ensure that people receive their just entitlements should not be borne equally by everyone is plausible. His argument for the 'allocation of duty' thesis is, however, unpersuasive. He defends his claim that individuals should promote the basic rights of their fellow nationals on the following grounds: (P1) human beings have certain basic rights. (P2) Individuals are under special obligations to their fellow nationals. Therefore, (C) individuals are under a special obligation to ensure that their fellow nationals' basic rights are observed. Thus he writes: 'Who has the obligation to protect these basic rights? Given what has been said so far about the role of shared identities in generating obligations, we must suppose that it falls in the first place on the national and smaller local communities to which the rights-bearer belongs' (1995: 75).

This argument, however, fails for two reasons. First, (P1) and (P2) do not imply (C).<sup>90</sup> One can, for example, accept both premises and deny (C). Just because X has a right to alpha and I have a duty to X, does not show that I have a duty to provide X with alpha. Suppose, for example, that a married man, A, has a right to a job. As spouse, we believe, has special duties to A. These two claims do not, however, imply that the central responsibility for ensuring that A's right is observed should be borne by his wife. A second problem with this argument is that it succeeds only if we also accept that individuals bear special obligations of distributive justice to co-nationals and, as has been argued above, this thesis is implausible.<sup>91</sup>

## XII

This chapter has concentrated, thus far, on cosmopolitan accounts of distributive justice and the alternative conceptions of justice that have been advanced by Rawls and nationalist thinkers like Miller and Tamir. The remaining sections of the chapter turn to realist perspectives on global principles of distributive justice. One powerful and frequently expressed line of reasoning objects that cosmopolitan analyses of distributive justice are utopian and unworkable. The next

two sections explore two distinct arguments, both of which challenge cosmopolitan principles of distributive justice from a realist point of view.<sup>92</sup>

First is what might be termed 'the systemic argument'. One commonly adduced critique of the cosmopolitan programme (including, but not restricted to, the cosmopolitan approach to distributive justice) argues that the international system is such that states cannot act in the way required to bring about cosmopolitan justice. The realist challenge makes a clear contrast between the domestic realm (where the state can, normally, enforce compliance with a distributive programme) and the global realm (where no equivalent coercive agency exists). As such it disputes the cosmopolitan contention that our domestic commitments imply global principles of distributive justice (the scope<sub>2</sub> claim) by arguing that there is a fundamental morally significant contrast between the two domains. It disputes, that is, cosmopolitanism's level-1 analysis. Since there is this morally significant difference (namely, the lack of a coercive agent) one cannot simply conclude, as the scope<sub>2</sub> claim maintains, that the principles fit for the domestic realm should be applied in the global realm. One can, that is, consistently *both* affirm certain principles for the domestic level *and* deny that these principles should apply at the global level and thereby meet the criterion of *domestic-compatibility*.

Consider, for example, the famous account of international politics provided by Kenneth Waltz (1979)—an account which many others, broadly speaking, also accept (Mearsheimer 1990: 5–56; 1995: 5–49). According to Waltz, the international system is a 'self-help' system in which the unit members (i.e. states) have no choice but to pursue their own interests. If they do not they will lose out. The dynamics of the system are thus such that unless one looks out for one's own interests one will go to the wall. There is therefore no possibility for the pursuit of moralistic ideals like eliminating poverty (Art and Waltz 1983: 1–32, esp. p. 6; Mearsheimer 1995: 48, fn. 182; Zolo 1997: p. 69). To apply justice at the global level thus shows a failure to understand the dynamics of the international system. This argument depends fundamentally on its account of the character of the international system. It assumes, first, that the international system will always have a statist character and, second, that under a system of states, the states are unable to act on cosmopolitan grounds. The first assumption is subjected to criticism in Chapter 5, and so will not be discussed further here, save to say that it ignores the historical evidence and takes an excessively deterministic view (Linklater 1998: ch. 1, esp. pp. 18–22, 215–16).

Even if we accept this first assumption, the anti-cosmopolitan conclusions do not follow because the second assumption is flawed for two reasons. One problem arises because this very formal and abstract account of the workings of the international system is implausible. For example, as Beitz pointed out in his critique of realism, published in the same year as Waltz's *Theory of International Politics*, some states are a good deal more powerful and wealthy than others (1999c: 40–2; cf. also Brilmayer 1994). Accordingly they are able to comply with cosmopolitan principles without them being unable to resist domination by others. Consider, for example, the specific example of debt cancellation. Writing

in 1999, the Harvard economist Jeffrey Sachs wrote that 'if the US were to write down the debts in their entirety, the budgetary costs would be just \$600 million, or around 0.000075 per cent of US Gross National Product' (1999: 8). Such a policy can have a dramatic effect on those living in debtor countries; money can be spent on education and health rather than repaying debts that previous, often corrupt, governments took out. But while such an action makes a large difference to the beneficiaries, it represents a minor cost to the United States. Put another way, the dynamics of the international system are not such that they prevent a state from acting on cosmopolitan lines.

A second flaw in the realist argument is more important yet, for it targets the assumption that there cannot be cooperation to pursue cosmopolitan ideals of distributive justice. It may be useful to illustrate this point by considering a concrete issue. Many affirm this realist claim in connection with the proposal to tax international currency speculation (the Tobin tax mentioned in Section I). Against the latter proposal, the critics argue that if a state, or group of states, decides to tax currency speculation in its jurisdiction, speculators will simply move elsewhere. Unilateral action is insufficient but collective action is unattainable. Hence the idea of international taxation is doomed.<sup>93</sup> This line of reasoning, though common, is misplaced. A Tobin tax can overcome the problems in three ways. First, international institutions can stipulate that no one can be a member of their institution and thereby enjoy the benefits it brings without signing up to the tax (Raffer 1998: 535). Furthermore, it has been noted that financial speculation is heavily concentrated in a small number of places: 'at present nine countries account for 84 per cent of foreign exchange transactions' (Arrestis and Sawyer 1999: 162). Given this, one need only secure their agreement for the tax to be implemented. This, of course, raises the question of whether speculators will simply set up elsewhere. This is where two further responses to the objection become relevant. For the second reply to the objection is that one can discourage dealers from setting up outside the zones being taxed by a Tobin tax by levying 'a punitive tax' on those speculators trading with those in a tax-free zone (Kenen 1996: 119, 119–20; cf. also Arrestis and Sawyer 1999: 162). Moreover, the third and final point to make is that there are ways of levying the tax which make it much more difficult to evade. One can tax a financial transaction either at the market where two dealers make the transaction (the dealing site) or at the place where the deals are booked and registered (the booking site). As Kenen notes, if one adopts the second policy, then it is easy to evade the tax: the brokers can simply book their deals on computers based in a tax free zone. However, as he also points out, if the source of taxation is the dealing site then it becomes much more difficult to evade the tax for the company has to move its dealing offices and dealers to another country not applying the Tobin tax. And this is costly and inefficient (Kenen 1996: 111–12; cf. also Arrestis and Sawyer 1999: 162).<sup>94</sup> In these ways the appropriate level of cooperation is attainable (Wachtel 2000: 340–1).

The point of the above brief excursus is not to defend the Tobin tax but rather to illustrate the ways in which cooperation to achieve a cosmopolitan goal can

be reached. It also serves both to bring out that universal cooperation may not be required, and also to point out that a simple realist model fails to recognize ways of securing cooperation.

In short then the systemic argument fails even if we accept a statist framework, because first the furtherance of some cosmopolitan ideals does not necessarily depend on cooperation and second because, to the extent that it does, some cooperation is possible.

Before moving on to consider a positive realist argument it bears noting that there are other realist arguments against cosmopolitan principles of distributive justice which charge that cosmopolitan attempts to alleviate the needs of the global poor inevitably fail. For example, many object that foreign aid

- (1) goes to corrupt third world dictators rather than the needy;
- (2) is frequently badly organized and inefficient (Krasner 1992: 49–50); and
- (3) increases population in poor countries which in turn prolongs the problem of poverty (Hardin 1996: 5–15).

Space precludes an examination of these but two points are worth making. First, many dispute the three empirical claims cited above, claiming that, although aid has sometimes been guilty of the above faults, they do not pose insurmountable obstacles to the pursuit of a fair world (Cassen 1994). Second, none of the three claims challenge the fundamental moral claims given by cosmopolitans. They are directed against specific policies and programmes but not against the moral principles. There is, then, *in this sense* not necessarily a value-conflict between these realist points and cosmopolitan principles of justice.<sup>95</sup> This bears out the point made in Section I of the utility of differentiating between different levels of philosophical analysis and distinguishing between claims about what fundamentally matters and claims about what particular policies should be adopted.

### XIII

As well as the critique just considered, realists also defend a positive thesis arguing that the state has a duty to pursue the national interest. The next argument considered seeks to show both that states do not have any duty to comply with cosmopolitan justice and that states have special duties to their citizens. States, that is, should pursue the national interest. The argument in question draws on the strong intuition that states have a special relationship with their citizens. One might, for example, argue that states are bound by a contractual duty to their people. According to this argument, states should not seek to improve the quality of life of people overseas but should rather seek to protect their own interest. Isn't this a datum of common sense? Intuitively speaking, it would seem bizarre to claim that state A has no more duties to one of its citizens than does state B. Drawing on such intuitions, then, it is argued that a state has special duties to its own citizens that other states or external institutions do not have and that it should eschew cosmopolitan ideals (Kennan 1985/86: 206).<sup>96</sup> This argument,

note, points to a morally significant difference between the domestic and the global domains, namely that the latter contains bodies (namely states) which have duties to their people and there is no analogue within states.

Certainly this argument does articulate a very powerful intuition but we need to explore in closer detail exactly what it establishes. As many have pointed out, it fails to show that states should not comply with cosmopolitan principles of distributive justice. It does not, that is, establish that there are no global principles of justice which bind states and other actors. The reason for this is that whilst we think that institutions (like states or trade unions or churches or social movements) are entitled to represent the ends of their members (and may even be duty-bound to do so) it does not follow that they can do whatever they want. They can, we think, pursue their ends *within the context of a fair overall framework* (Barry 1991b: 165–6; Pogge 1994b: 221–2; Pogge 1998a: 474–6). So whilst leaders of social institutions (like trade unions or churches) have a duty to further the interests of their members this does not entitle them to take what is not theirs or to kill people if that furthers their members' interests. Their duty to their citizens applies within a set of parameters defined by a theory of justice. Accordingly to rebut the cosmopolitan, the realist must challenge the cosmopolitan account of these parameters and this the argument does not do. Accordingly the argument under question fails to undermine cosmopolitan principles of distributive justice.<sup>97</sup>

## XIV

It is time to conclude. This chapter has covered a considerable amount of ground and it may be appropriate to sum up the findings. It has argued that:

1. contractarian accounts of cosmopolitan justice can overcome two challenges but prove ultimately unconvincing;
2. consequentialist accounts of cosmopolitan justice can also overcome some common objections but are incomplete and indeterminate;
3. existing rights-based approaches are plausible but insufficient;
4. the rationale underlying traditional domestic theories of distributive justice actually justifies the global application of their theories (the scope; claim) and this is because they rely on a universalist conception of moral personality;
5. the cosmopolitan arguments conform to the logical structure specified by the General Argument;
6. we may identify four plausible principles of cosmopolitan distributive justice. The chapter then analysed two Rawlsian arguments, finding that
7. Rawls's appeal to toleration fails to invalidate cosmopolitan principles of distributive justice;
8. Rawls's (and Miller's) responsibility argument is incomplete and rests on a dubious analogy.

The chapter then turned to three nationalist claims, arguing that

9. arguments that cosmopolitan schemes of distributive justice are unfeasible are unpersuasive;
10. both arguments to the effect that persons have special obligations of distributive justice to fellow nationals are unconvincing; and
11. the claim that persons have cosmopolitan rights but that the duty to uphold them falls on fellow nationals is unpersuasive.

The chapter finally discussed two realist claims:

12. the negative claim that global schemes of distributive justice are unworkable and utopian;
13. the claim that the only distributive duty states have is a contractual duty to maximize the condition of their members.

Having considered now universal principles of civil and political justice and universal principles of distributive justice, a natural question to ask is what political institutions are most appropriate in the light of these ideals. This is the subject of Chapter 5.

## NOTES

1. For some good surveys of the competing perspectives on global distributive justice see Brown (1992: 155–92; 1997b: 273–97), O'Neill (2000: 115–42), and Jones (1999).
2. For an instructive discussion of the questions that follow see Jones (1999: 2–8).
3. For further discussion of these possibilities and a defence of a fourth perspective see G. A. Cohen (1989: 906–44).
4. See, for example, Barry (1991c: 182–7). Barry's discussion focuses on a famous argument given by Peter Singer (1972: 229–43). He suggests that it is best construed not as a claim about 'justice' but about 'humanity'. Singer's argument is discussed in Sect. IV of this chapter.
5. More generally, a commitment to cosmopolitan fundamental principles can justify special obligations to fellow nationals where there is a correlation between the reasons that cosmopolitans think can justify redistribution, on the one hand, and nationality, on the other. See Goodin (1988: esp. pp. 663–4 and also pp. 678–86), Barry (1996: 431), Jones (1999: 130–1, 133–4).
6. For a similar distinction see Miller (1998: 166–7).
7. As does Moellendorf (2002a: 39–43, 48–50, 72, 129).
8. See also Caney (1999a) for a critique of the claim that persons have special obligations of distributive justice to fellow nationals.
9. See Pogge (1992a: 90–101; 1994a: 90–8, esp. pp. 90–91; 1995: 113–19).
10. A similar point also applies to O'Neill's account of justice. She argues that people are bound by duties of justice to other people only if they are connected in some way (1994: 81–3; 1996: 105–6, 112–13). She then argues that, given the high levels of global interconnectedness, the scope of justice in our world is global or pretty much so (1996: 113–21, esp. p. 121).

11. For earlier discussions see Pogge (1992a: 96–7; 1994b: 199–205).

12. Barry also once argued that there should be global equality of resources (1991d: 237–9; 1991c: 196–203).

13. David Richards has also defended a global difference principle (1982: 287–93, esp. pp. 292–3). He also defends a principle of ‘mutual aid’ where this requires that people come to the aid of needy people (1982: 282–7).

14. See, further, Bader (1997), Barry and Goodin (1992), and Black (1991, esp. pp. 360–2, 373–7). Some defenders of global capitalism maintain, of course, that open markets (for commodities, factors of production, and finance, as well as labour) are the best means for furthering the condition, of the most disadvantaged.

15. The same point is made by P. Jones (1994: 167) and Teson (1998: 111). See also C. Jones (1999: 8).

16. A question: if this hypothesis was confirmed in the case of civil and political justice would it not perhaps be surprising if it did not also apply to distributive justice?

17. For Pogge’s defence of a global original position see (1989: 246–59). Pogge also defends a global difference principle (see, for example, (1989: 250–3)). The condition of the globally worse off has very great weight even if it does not have absolute priority (1989: 274–5).

18. For this criticism see also Brown (1992: 176, 180; 1993: 521–2, 1997b: 289–90; 2002b: 173).

19. Pogge’s institutionalism runs throughout all his work on distributive justice: for clear examples see (1989: 262–3, 273–80). For his critical discussion of, and reply to Barry’s critique of, Beitz see (1989: 263–5).

20. Moellendorf, like Beitz, Pogge, and Scanlon, also defends a global difference principle (2002a: 80–1).

21. Compare Murphy (1998: 273).

22. Shue also makes this distinction in his illuminating discussion of institutional and interactional accounts (1996a: 164–6).

23. Beitz makes a similar point in an article published four years after the first edition of *Political Theory and International Relations* (1983: 595). Cf. also Buchanan (1999b: 72).

24. See also Pogge (1989: 247; 1994b: 198).

25. See also Pogge’s rejection of Beitz’s non-institutional component (1989: 241) and also his criticism of Beitz’s resource principle (1989: 251–2).

26. For a fuller analysis see Caney (forthcoming *a*).

27. Pogge, I should emphasize, does not reject positive duties of justice. He wishes to stay agnostic on this issue. His main aim is to argue that we have negative duties of justice not to uphold unjust institutional schemes and to show that compliance with this would prevent a great deal of the poverty and suffering that exists. At most his strategy is to argue that we do not need positive duties for we can achieve all that is necessary through the notion of a negative duty not to impose unjust institutions on people.

28. For a more comprehensive analysis of these considerations see Caney (forthcoming *a*) where I argue that there are positive duties of justice to ensure that persons do not suffer deprivation.

29. For pertinent discussion see Shue (1996a: 164–6; 1996b, esp. pp. 117, 119, 126).

30. For Richards’s position see also (1971: 138–40).

31. There is a footnote after the word ‘good’ which refers to Rawls’s 1980 lectures on Kantian Constructivism in Moral Theory (1983: 595, fn. 6).

32. It should, however, be noted that in his more recent writings Beitz appears to maintain, in a similar way to the book, the moral relevance of economic interdependence: Beitz (1999b: 516–18, 521–4, esp. pp. 523–4). See also (1999c: 200–5).

33. This section has focused exclusively on cosmopolitan reworkings of Rawls’s theory. We should, of course, note that there are other contractarian theories of global distributive justice. For example, Barry employs his contractarian theory to defend four principles of cosmopolitan distributive justice (1998: 147–9). Since the theoretical method Barry employs was criticized at length in Ch. 3, this chapter will not explore his defence.

34. For Beitz’s explicit affirmation of a universalist moral personality and affirmation of the irrelevance of a person’s nationality or citizenship for their entitlements see Beitz (1979: 417–20; 1983: 593, 595–6; 1988a: 191–3; 1994: 124–5).

35. For Singer’s most recent views see (2002: 150–95).

36. Singer, it should be noted, thinks that his argument makes a claim about justice (Singer 1979: 166, 173–4).

37. Cf. also Waldron (1990: 267–71). See, more generally, Jones’s discussion of demandingness (1999: 33–9).

38. For Scheffler’s discussion of the nature of an ‘agent-centred prerogative’ see (1982: 14–26) and for his discussion of its rationale see (1982: 41–70, esp. pp. 56–70).

39. On the consequentialist character of his principle of ‘protecting the vulnerable’ see Goodin (1985: 109–14). Goodin does, though, point out that this principle is compatible with, and might be accepted by, nonconsequentialist perspectives (1985: 115–17).

40. See Scheffler’s argument that consequentialism should be distribution sensitive. It should not necessarily maximize good outcomes and may instead seek to ensure a fair distribution of desirable outcomes (1982: 26–32, 70–9). Scheffler terms his theory, which combines the agent-centred prerogative with a sensitivity to how well-being is distributed, ‘the distributive hybrid’ (1982: 32, cf. pp. 32–40).

41. This coheres with the account of civil and political rights adumbrated in Ch. 3. The latter, recall, draws on the ideal of respecting persons and, arguing that respecting persons involves respecting their interests equally, defends universal civil and political rights on the basis that these best further the equal interests of all. It is thus concerned with outcomes but, it is crucial to note, unlike the consequentialist theory criticized in the text, it embeds it in a theory based on the ideal of treating persons with respect. So although it is concerned with outcomes, it is not consequentialist in the sense criticized here. It is not committed to maximization; it does not need to be supplemented by a theory of rights because it is based on the right to be treated equally; and it is not indeterminate.

42. Scheffler recognises this (1982: 39–40, cf. also p. 31).

43. The principle which underlies Singer’s utilitarianism also bears this out. He appeals to persons’ equal moral standing (1979: 14–23, esp. p. 23). Such a principle will, of course, generate universal principles.

44. For Pogge’s analysis of the concept of human rights see Pogge (1992a: 89–101; 1995: 103–20; 2000: 45–69). As we saw in Sect. III of this chapter, in his earlier work, Pogge worked within Rawls’s contractarian theory of justice, seeking to apply it globally (1989; part III). He has subsequently shifted his position.

45. For his statement of the seven types of rights that should be protected in the name of autonomy see (1995: 192–4).

46. For another rights-based account of cosmopolitan principles of distributive justice see Beetham (1995: 41–60).

47. For Shue's concept of a basic right see (1996a: 18–20).

48. For likeminded criticism see also Nickel (1987: 103–4).

49. Jones also subscribes to Shue's defence of a human right to subsistence: see (1999: 59–61).

50. O'Neill argues that rights theorists' account of who bears the obligations for welfare rights is unsatisfactory and an obligation-based approach is preferable (1996: 129–35).

51. For this line of reasoning: see C. Jones (1999: 66–72, esp. pp. 68–9), Shue (1988, esp. pp. 695–8, 702–4; 1996a: 17, 59–60, 159–61, 164–6, 168–9, 173–80). Shue's position should be compared with Pogge's. Unlike Shue, Pogge stipulates, as we have seen, that duties of distributive justice fall only on fellow members of institutional set ups (1994a: 91–3). Since he accepts globalization, he thinks, however, that this duty (to create and support institutions to protect human rights) extends universally (1994a: 91–8). That is, affluent persons have a duty to create and support institutions that protect the human rights of all persons.

52. For a recognition, and endorsement of this point, see C. Jones (1999: 6, 8).

53. This conclusion is also true of other rights-based defences of theory of cosmopolitan principles of distributive justice. Consider two other rights-based theories. For example, Hillel Steiner defends each person's right to an equal portion of natural resources (1994: 262–5, 270). He makes clear that the reasoning grounding people's rights does not depend on arbitrary aspects like someone's nationality and that the logic for these rights generates global rights. This is true whether the right is a civil and political right, like the right not to be shot (1994: 262), or an economic right, like person's right to material resources (1994: 265). The same is also true of Philippe van Parjs's defence of an unconditional basic income. Van Parjs argues that persons have a right to an unconditional income if they are to enjoy real freedom. He recognizes, moreover, that the logic of his argument shows that *all persons* have this right: see van Parjs (1995: 227–8). His book thus defends real freedom 'for all' (1995).

54. The same, note, is true of Pogge. See Pogge (1989: 247; 1994b: 198). For a particularly interesting development of this point see Pogge (1992b: throughout but esp. pp. 88–90, pp. 92–95).

55. For one important perspective omitted from the above analysis see O'Neill (1986, 1996).

56. This point applies also to other arguments for cosmopolitan principles of distributive justice not examined above. It is, for example, an explicit feature of Veit Bader's justification of a cosmopolitan account of distributive justice: this both affirms a universalist moral personality and argues for the irrelevance of nationality (Bader 1997: esp. pp. 32–3). See also Carens (1987: 252, 256).

57. See, in addition, Barry (1991d: 226; 1998: 146).

58. O'Neill might appear to be a counter-example to this claim for she criticizes attempts to defend cosmopolitanism which are predicated upon an account of persons' 'moral standing' or 'moral considerability' (1996: 94) on the grounds that these metaphysical concepts are mired in controversy (1996: 91–6).

59. For a contrasting view to that defended in this paragraph, see Molly Cochran's interesting analysis of the role that conceptions of 'moral personality' play in arguments for cosmopolitanism: Cochran (1999: ch. 1). By contrast with the view defended here, Cochran argues that a universalist account of moral personality is present in only some vindications of cosmopolitanism (like Beitz's) and not in others (like Pogge's) (1999: 30, 40–1, 44–9).

60. The ideal of global equality of opportunity has been defended by a number of philosophers: Barry (1991d: 226, 237–9) and Pogge (1994b: 196). For my own defence of this principle see Caney (2000a; 2001a). For a different conception of global equality of opportunity and a different rationale for this principle see Buchanan (2000: 711, 714). Buchanan clearly distances himself from the one I endorse (2000: 712, fn. 14). Moellendorf also defends the idea of global equality of opportunity (2002a: 48–50, 79–80). Note, though, that by contrast with the position defended in the text, he adopts an 'institutionalist' perspective and his argument for it relies on there being global interdependence. See Sect. III of this chapter. For criticism of the idea of global equality of opportunity see Boxill (1987).

61. For further discussion and criticism of the equal pay principle along these grounds see Shue (1983: 274–83, esp. pp. 274–8) and Lehman (1986: 155–62).

62. For an illuminating discussion of various ways in which one might argue that the global realm is fundamentally different to the domestic realm (and a cosmopolitan response to each of them) see Beitz (1999c: 154–61 but also 13–66; 1999b: 521–4).

63. This brings out the point noted above (Ch. 3, Sect. I) that the criterion of domestic compatibility does not require that the same principles apply in domestic and global realms (à la scope claim). Different ones can apply if one can give a good reason as to why the two realms are disanalogous.

64. For a somewhat similar approach to Rawls's see Nardin's important work *Law, Morality, and the Relations of States* (1983). As I noted in Chapter 1, Section III, Nardin distinguishes between two conceptions of international morality. According to the 'practical' conception, states are duty bound to respect the equality and independence of other states. According to the 'purposive' conception, states have a duty to promote some ideal (whether it is a religion like Christianity or an ideology like communism or a cosmopolitan programme) (1983: ch. 1). Nardin argues for the former and against the latter in part on the grounds that a society of states acting on the practical conception protects diversity (1983: 5, 12, 22, 24, 229–30, 231–2, 305, 322–4; 1992: 23–4).

65. Rawls refers to Shue (1996a: 23) and Vincent (1986) on the right to subsistence (1999b: 65, fn. 1).

66. There is a footnote after the word 'regime' in which Rawls refers to secs. 15 and 16 of (1999b); see (1999b: 37, fn. 43).

67. There are a number of illuminating discussions of *The Law of Peoples*. These include, among others, Beitz (2000: 66–96), Brown (2000: 125–32; 2002a), Buchanan (2000: 697–721), Kuper (2000: 640–74), and Pogge (2001b: 246–53).

68. This point is made, against Rawls, by many cosmopolitans: see, for example, Beitz (1983: 593, 595–6), Pogge (1989: 247), Singer (2002: 176–7).

69. For an additional consideration see Pogge (1994b: 213–14).

70. For a comprehensive review of the literature on this empirical issue see Michael L. Ross (1999: 297–322). Curiously Rawls himself inadvertently concedes that societies are sometimes burdened because they 'lack . . . the material and technological resources needed to be well-ordered' (1999b: 106).

71. For some examples, see Brown (2000: 130–1), Buchanan (2000: esp. pp. 703–12), Hurrell (2001: 48), and Pogge (2001b: 251–3). See also Caney (2002a: secs. IV and V).

72. For further discussion of this argument see Elfstrom (1983: 712–14, 722); Jones (1990: 48–9; 1994: 166–7).

73. This point is made by many: see, for example, Beitz (1999b: 527–8; 2000: 692), Caney (2000a: 142–3; 2002a: 116), Green (1996: 200), and Jones (1990: 49).

74. Miller, it should be noted, does recognize that there can be a variety of reasons why a state fails to secure people's economic entitlements. He considers four possible explanations and their implications for outsiders' duties in Miller (1999; 201–4). For a critique of his discussion see Caney (2003: 304–7).

75. As Barry points out, we accept redistribution within the state even though we accord families considerable independence (1999: 51). That an institution has autonomy does not imply that it forfeits any distributive entitlements.

76. I have developed this argument more fully elsewhere: cf. Caney (2003: 303–5).

77. For further discussion see Caney (2000a: 139–44; 2002a: 114–17).

78. For this kind of reasoning see MacIntyre (1984: 17), Miller (1988: 650–1; 1995: 57–8), and Rorty (1989: 190–1, 198).

79. This line of argument is stressed by Margaret Canovan (1996a: 3, 28, 30–2, 34–5; 1996b: 73–5, 78), Miller (1988: 661; 1989, esp. pp. 59–60, 68; 1995: 93–6; 1997: 70; 2000a: 31–2), and Tamir (1993: 118).

80. For a persuasive, related point, see Goodin (1992a: 249; cf. more generally, 1992a: 248–9, 252–4).

81. For further sceptical comments on the extent to which a sense of nationality enables the effective functioning of schemes of justice see Arthur Ripstein (1997: 214–16).

82. For Miller's most comprehensive statement to date see Miller (2000c). For earlier statements of his preferred principles of international distributive justice see Miller (1995: 104–8, esp. pp. 104–5; 1999: 198–209).

83. See Goodin (1985: 167). Goodin also cites Beitz (1999c: 155–6) and Singer. The relevant passage from Singer is (1972: 237). See also Beitz (2000: 683) on this point.

84. For an illuminating discussion see Geras (1995: 78–81, esp. p. 78).

85. See, further, Andreas Føllesdal (forthcoming, sec. III.1.5) and C. Jones (1999: 137–47). For illuminating discussions of moral psychology see, more generally, Barry's account of the desire to act in a reasonable and justifiable manner (1989: 284–5, 363–4) and Rawls's discussion of principle-dependent and conception-dependent desires (1993b: 83–6).

86. For further discussion see Caney (1999a: 130–2).

87. Such claims are advanced by Miller (1995: ch. 3 and in ch. 4, pp. 83–5, 98); Tamir (1993: 104–11). Some question whether the obligations that come with one's social identity are best thought of as obligations of justice. See, for example, Sandel's eloquent discussion (1982: 179).

88. See further Buchanan (1989: 874–6, esp. p. 874), Dworkin (1986a: ch. 6, esp. pp. 199–204), Friedman (1991, esp. pp. 819–21, p. 835), C. Jones (1999: 127–30), Mason (1997, esp. pp. 439–46), Nathanson (1989: 551–2), Raz (1989: 18–21), Scheffler (1995; 1997: 189–209, esp. pp. 197–200), and A. John Simmons (1996, esp. pp. 264, 266–7, 269–70). Daniel Weinstock also argues persuasively that our intuitions do not clearly show that persons have obligations to fellow nationals (1999: 528–33).

89. For this point see Caney (1999a: 128–33). Moellendorf makes the same point: see (2002a: 52–3).

90. See also Freeman (2000: 72).

91. Miller does give another argument for the 'allocation of duty' thesis. He maintains that it would be inappropriate to ascribe duties to all human beings because to require outside agents to implement cosmopolitan principles of justice justifies external

interference and a violation of the right of nations to be self-governing (Miller 1995: 77–8; cf. also Brown 1992: 168–9, 171; 1993: 522). Duties to protect cosmopolitan rights thus fall on fellow nationals. Space precludes a fuller discussion of this argument. Two points however should be borne in mind. First, its claim that outsiders do not have obligations rests on the assumption that intervention is required and this is disputable. There are surely ways of assisting a nation that do not compromise its independence (Barry 1996: 432–3; Green 1996: 200). Its empirical presuppositions are thus questionable. So too are its normative presuppositions and this is the second problem with the argument. For its critique of universal duties to succeed it has to show that national self-government has value even where it results in calamitous decisions. The value of self-government and the virtues and vices of intervention are discussed later (in Chs. 5 and 7). In the meantime, however, one can argue that the argument under scrutiny deifies the nation (or nation-state) for it ascribes its value independently of how it impacts on human lives. What, one might ask, is valuable about self-determination if it leads to a state of affairs in which people lack their entitlements? If a national government is producing policies that deny people their basic rights and entitlements then what is so valuable about non-intervention? For a fuller critique see Caney (2000a: 135–9).

92. For good critical analyses of realism see Barry (1991b: 159–81), Brittainay (1994), Donnelly (1992: 85–111), Goodin (1992a: 248–64), and Thompson (1992: 27–43).

93. For such scepticism see the UK HM Treasury's critical analysis of the tax (2001: pp. xii–xiii). The UK's International Development Committee is more sympathetic but it too is unconvinced of the feasibility of the tax (2002: 25–7). For more general criticism of the Tobin tax see Garber and Taylor (1995).

94. For the last two points see also Jetin and Brunhoff (2000: 208, and also pp. 207–10 more generally).

95. As a number of writers have pointed out, much realist argument claims in effect that the best way to promote the well-being of all is for states to advance their own national interest. Such arguments provide a cosmopolitan critique of international aid (it benefits no one) and a cosmopolitan justification of the pursuit of the national interest (this best promotes the standard of living of all). For this convergence between realism and cosmopolitanism see also: Mapel and Nardin (1992: 300), Mason and Wheeler (1996, esp. pp. 100–6), and Thompson (1992: 28).

96. See also Goldman (1982: 450).

97. For further discussion of this argument see Beitz (1999c: 24), Cohen (1984: 300), Dower (1998: 31, 37–8). See here Buchanan's illuminating discussion of the duties of states. See, in particular, his critique of what he terms the 'discretionary association' view, which is the view that the prime duty of states is to protect their members' interests (1999a: 74–82) and, in particular, his discussion of the realist maxim of promoting national interests (1999a: 78–9). He defends instead the view that the state has a duty to further just institutions (1999a: 82–7). For further discussion of the legitimate role of democratically elected authorities and the limitations on their duties to be partial, see Pogge's excellent discussion (1998a: 464–96, esp. pp. 474–6).