

Does Global Justice Require More than Just Global Institutions?

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The 'institutional approach' to justice holds that persons' responsibility of justice is primarily to support, maintain, and comply with the rules of just institutions. Within the rules of just institutions, so long as their actions do not undermine these background institutions, individuals have no further responsibilities of justice. But what does the institutional approach say in the non-ideal context where just institutions are absent, such as in the global case? One reading of the institutional approach, in this case, is that our duties are primarily to create just institutions, and that when we are doing our part in this respect, we may legitimately pursue other personal or associational ends. This 'strong' reading of our institutional duty takes it to be both a necessary and sufficient duty of justice of individuals that they do their part to establish just arrangements. But how plausible is this? On the one hand this requirement seems overly inflexible; on the other it seems overly lax. I clarify the motivation and context of this reading of the institutional duty, and suggest that it need not be as implausible as it seems.

Introduction

Does global economic justice require individuals and their associations to do more than support and comply with the rules of just global institutions?¹ On what we may call the *institutional approach* to justice, when just institutions are in place, individuals' responsibility of justice is primarily to comply with and maintain these institutions. Within the rules of just institutions, persons may do as they wish so long as background institutions are preserved.²

If we extend the institutional approach to the global context, then global justice does not require more than *just* global institutions in this sense. Our collective

¹ I thank the audience at the Societas Ethica 2015 Conference in Linköping, Sweden, for their generous feedback, with very special thanks to Göran Collste and Marcus Agnafors and a reader of this journal. I am particularly grateful too to Nigel Dower for his helpful comments and criticisms at the conference.

² See John Rawls, *Justice as Fairness* (Cambridge, MA: Harvard University Press, 2001), p. 50.

responsibility of global justice is discharged and exhausted where just global institutions are established and supported in our society, and not upset by the cumulative effects of our actions.

I believe the institutional approach provides a plausible and defensible picture of justice in the global as well as domestic contexts. To be sure, this institutional picture of justice has its detractors. Some critics object that the demands of justice are not exhausted simply because individuals are playing by and sustaining the rules of just structures.³ Others could accept the institutional view in the domestic case, but reject it as an ideal of *global* justice on the ground that there aren't the relevant regulative institutions in the global plane.⁴

I will bracket these objections here, and start with a question that arises *even if* we accept the institutional view in its ideal form. What responsibility of justice do individuals have when just institutions *are absent*? So even if we assume the possibility of establishing just global institutions, the question can still be asked: what responsibility of justice do persons and associations have in the absence of just global arrangements? In other words, my discussion presupposes the institutional approach as an ideal. My question is whether this approach provides plausible guidance in the case where just institutions are absent.

One possible institutional response is as follows: in the absence of just arrangements, individuals have the responsibility of justice to do their part to help create just arrangements, and when they do their share in this regard, they adequately fulfill their responsibility of justice.

Let us call the duty to create just institutions an *institutional duty*, in contrast with an *interactional duty* which involves providing aid or assistance directly to needy others. The institutional duty that I am exploring has two prongs. One prong says that this duty is a *necessary* requirement of justice, such that an individual fails to do her part to promote justice if she neglects her institutional responsibility even if she is doing good interactionally. The other prong holds that the institutional duty *sufficiently* exhausts the requirements of justice, such that even if one can do more interactionally to promote the good, one's responsibility of justice is fulfilled when one does her institutional share.⁵ We can call this the strong reading of the institutional duty.

The institutional duty recalls Rawls's famous remark, that '[f]rom the standpoint of the theory of justice, the *most important* natural duty is that to support and to further just institutions.' The statement goes on to clarify the latter: 'we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves'.⁶ It is an interesting interpretative question as to what Rawls

³ See, e.g., G. A. Cohen, *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008).

⁴ For one example, see Samuel Freeman, *Justice and the Social Contract* (New York: Oxford University Press, 2007), in particular chapters 4 and 8.

⁵ These contrasting terms and their cognates have been used by Thomas Pogge and Iris M. Young, among others. See Thomas Pogge, *World Poverty and Human Right* (Oxford: Polity Press, 2001), and Young, *Responsibility for Justice* (Oxford: Oxford University Press, 2011). Although deployed in the same spirit, I don't claim that I am using them in precisely the same sense.

⁶ John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), p. 334. My italics. In full, it reads: 'From the standpoint of the theory of justice, the *most important* natural duty is that to support and to further just institutions. This duty has two parts: first we are to comply

might mean by 'most important'. It is not obvious that he intends the strong reading of the institutional duty that takes it to be both necessary and sufficient. My aim, however, is not engage in Rawls exegesis, but to examine independently the plausibility of this strong reading.

It is obvious that the claim that the institutional approach provides guidance under non-ideal conditions is not itself a defense of the institutional approach. Anyone who is not convinced by the institutional approach from the outset will not be swayed by the thesis that it can have non-ideal application. Yet, on the other hand, some have objected to the institutional approach because they believe it cannot have application in non-ideal cases. It is against this specific concern that this paper is directed. To be sure, this amounts to only a partial of the institutional approach (if successful), but it is nonetheless necessary for any complete defense of the institutional approach. A complete defense of the institutional approach has to show both that it is defensible as an ideal and that it can have reasonable application in standard real world situations. This paper is concerned solely with the latter. Another way of situating the present discussion is as follows: suppose you endorse the institutional approach as an ideal. What does that approach tell you when just institutions are absent? This is hardly an obvious question. Thus presuming the institutional approach as an ideal, and then asking what follows from that in situations where just institutions are lacking, is hardly trivial or question-begging.

A qualification before proceeding. My claim regarding the significance of institutions is limited to the special case of *economic* or *distributive* justice. How far and with what qualifications the institutional thesis can be extended to justice more generally is something I leave aside. Thus 'Justice' here refers specifically to 'economic [or distributive] justice' unless otherwise qualified or contextualized, and by 'institutions' or 'social structures' I include the wide array of social institutions, rules, policies, and the like that affect economic distribution in a social order.

The Institutional Approach

It will be useful to start by recounting some of the relevant assumptions behind the institutional approach as an ideal. Recollecting these assumptions, of course, does not amount to a reply to critics who reject these very assumptions in the first place. But keeping these underlying motivations in mind will provide a clearer understanding of the institutional duty (in the non-ideal case), and why it is not as straightforwardly implausible as some commentators think.⁷

The first and oft cited motivation for the institutional view derives from the fact of the 'profound and pervasive' impact of background social institutions on individuals' lives. The central political, economic and social institutions of a society determine

with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves.'

⁷ Here I draw on my *Justice, Institutions and Luck* (Oxford University Press, 2012), part I. The main critics I have in mind are Liam Murphy and G.A. Cohen. Murphy, 'Institutions and the Demands of Justice', *Philosophy and Public Affairs* 27 (1999): 251-91; and Cohen, *Rescuing Justice*.

individuals' fundamental rights, entitlements and responsibilities. Given this impact of institutions on people's life prospects, institutions must be subject to the regulation of justice (e.g. Rawls).

The second relevant motivation for the institutional approach invokes the idea of background justice. In the absence of background justice, individuals on their own cannot know with adequate determinateness how to respond to injustice or the needs of justice. One reason is that distributive justice, as a matter of *social* justice, will require certain coordination among individuals in a social order regarding how each is to best discharge her respective responsibility of justice. Without the coordinating function that institutions provide, interpersonal efforts risk inefficiency as well as the danger of cancelling another out.

The second reason is more significant. Institutions do more than coordinate individual activity for the cause of justice. More fundamentally, they have the function of determining individuals' rights and entitlements and duties. The institutional view stands in contrast with the Lockean picture that economic justice (e.g., individuals' rights of ownership and transaction) is pre-institutional, and that the role of social institutions is basically to secure and enforce the economic rights that individuals can have in nature. The institutionalist (following the tradition of Hume, Rousseau, and Kant) holds, to the contrary, that economic rights and the terms of economic justice are provided institutionally. For instance, there has to be a 'public system of rules'⁸ in place before we can together determine each of our economic rights and duties, including our property rights, the rights of transfers and the like.

This view of justice does not implausibly say: 'whatever existing institutions say goes'. Institutions can fulfill their purpose of determining economic entitlements only if they are appropriately organized, and hence the necessity of regulating institutions against principles of justice. What the institutionalist holds is that in the absence of an adequately structured institutional order, it remains under-determined what it is that individuals are entitled to and what it is that they owe to each other as a matter of distributive justice.

The institutional view also affirms that justice is a social and public ideal and enterprise. A just distributive order is not something we can each personally pursue in isolation from each other. It is something we must collectively and publicly aim to affect.

While the above two motivating assumptions are largely familiar, the third relevant assumption is perhaps less discussed. This is that the institutional approach provides an interpretation of the demands of justice that preserves moral room for individual (personal or associational) pursuits and commitments. By locating and confining the site of distributive justice to institutions, it makes room within the parameters of just institutional rules for individual pursuits and relational commitments.

The underlying idea here is that while justice is a regulative ideal, it is not a dominant good in the sense that all valuable human pursuit must be for the cause of justice. To the contrary, the aim of justice is to provide the maximal space for individuals to each pursue *freely but fairly* their own ends in life. Justice sets the limits for the kinds of ends we may have and the means by which we may pursue them. With background justice in place, we can try to realize our conceptions of the good fervently, confident that we are doing so rightly. Indeed, the institutional approach recognizes the importance of

⁸ Rawls, *Theory*, p. 55.

institutional vigilance in that the cumulative effects of actions that are just or permissible taken on their own, can overtime, when compounded with other just actions, lead to unjust outcomes. Hence there is the need to keep an eye on the institutional framework within which different persons pursue their ends, and be ready to make institutional adjustments to counteract the effects of combined just actions.⁹

This assumption of pluralism combined with the requirement that we pursue our competing ends on terms that are right by others explain why justice has a certain primacy over other values but is nonetheless not a dominant end in itself. The institutional focus supports an account of justice that affirms its regulative primacy without subsuming all other values under it.

These three motivating reasons are interdependent in the following ways. Since institutions profoundly and pervasively impact the lives of individuals, they ought to be regulated by some ideal of justice. Since it is justly regulated institutions that correctly determine individuals' rights and duties, there must be some appropriate institutional arrangements in the background to define these rights and duties. And since institutions frame individual responsibilities in this way, limiting the site of justice to institutions provides a way for demarcating the demands of justice from the demands and prerogatives of individual personal or associational lives. These assumptions together clarify why it is that the basic structure is 'the primary subject of justice' (Rawls).

The Necessity of an Institutional Response

With these assumptions in place, I turn to the claim that an institutional response is *necessary* for justice. Rather than a case of confusing means for ends, as some critics have alleged, the necessity claim holds that just institutions are constitutive of a just state of affairs and is not merely instrumental in this regard.

The first reason for the necessity of an institutional duty (again meaning here *the duty to create just institutions*) concerns the profound and pervasive effects of institutions on individuals. Institutions assign to persons their fundamental entitlements and responsibilities. Thus, when existing arrangements are unjust, responding to the effects of these arrangements seem at best to be palliative rather than corrective of the injustice. It is akin to addressing the symptoms of injustice without also attending to its (institutional) cause.

This is not to dismiss the importance of palliative responses in certain moral situations. But it has to be acknowledged that nonetheless justice is not being realized so long as we are only attending to the effects of injustice and not addressing the inherently institutional source of the injustice.

The ideal of background justice behind the institutional view is another reason for the necessity of an institutional duty. In the absence of institutional rules coordinating the diversity of individual efforts towards a shared just end, there is the obvious problem of efficiency as well as the bigger danger of one response canceling another out.

But, as mentioned above, more significant than the coordinating role of shared institutions is the role of institutions in determining and specifying individual rights and

⁹ Young, *Responsibility for Justice*, chapter 1; also John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), p. 266-267.

duties. Without adequate background institutions, individuals not only are unable to coordinate their joint objective of promoting justice. They will be left in the dark as to what it is that they owe to one another. What is rightly mine that I may rightly redistribute in the name of economic justice? Which of the many needy individuals should I redistribute resources to? And to which particular problem of social injustice – abject poverty; inequality in education; or lack of access to healthcare – do I devote my attention?

These three questions – *what* is rightly mine, *to whom* I owe, and *to which* injustice I should be committed – highlight the necessity of social institutions. Without social arrangements in the background, individuals cannot know precisely what they rightly own and what they owe to others. Without just distributive institutions that are publicly affirmed, there is the danger of partiality regarding the recipients of redistribution, as when a philanthropist decides on her own which subset of individuals to assist. And social programs and causes that are identified and pursued privately rather than publicly through shared institutions are prone to a certain arbitrariness and the lack of accountability.

Institutions, in specifying the conditions of background justice, not only identify the aspiration of justice. They also set the parameters within which we may permissibly realize these aspirations. Even when we are certain what justice requires at minimal, it is not obvious that we may do whatever it takes to realize this in the name of promoting justice.

As a clear illustration, consider a flawed criminal justice system that disproportionately sentences members of a minority group to lengthy prison terms. We may be confident that this system is unjust, but it does not follow that we are entitled to act unilaterally to repair the effects of this unjust arrangement. It is not obvious, for example, that private persons may attempt to break out prisons those they believe to be wrongly sentenced. This is an institutional institution, the resolution of which requires an institutional response.

Consider now an example within distributive justice: Suppose you know that the economic institutions in your society are unjust, and that whatever the institutional details of your duties, you know with confidence that the top 1% say is not entitled to the entirety of their holdings, and that the least advantaged in your society are in fact entitled to some of these. Still it would not be permitted for you to assume the role of a Robin Hood, and rob from the 1% to give to the poor.

I think we would reject the above interactional responses to these injustices for the same reason we reject *vigilante* justice in general. The vigilante sets goals that ought to be publicly identified; and she relies on means (e.g., the use of force) whose appropriateness are matters of public decision. Acting on her own discretion on a problem that is a social one, her actions lack publicity and therefore also accountability. Acting through institutions help ensure that just steps are taken in the cause of justice.

Furthermore, to reiterate an earlier point, even if some good is achieved through vigilantism (e.g., an innocent person is freed, the undeserving rich is forced to redistribute) such responses are *ad hoc*, they affect only an arbitrary number of individuals, and they target only the symptoms of injustice and not its source. Even if we are prepared to say that the vigilante is doing some good, we can still say that she is not helping to realize social justice. And in some cases, as in some forms of vigilantism, she is moreover acting unjustly.

As an aside, vigilantism is distinct from civil disobedience, and the above remarks do not apply to the latter. Civil disobedience is a public rather than unilateral activity and is aimed, I will stress, at correcting an unjust arrangement.¹⁰ Civil disobedience thus falls under that class of institutional responses. The acts of vigilantism I oppose above – unilateral, uncoordinated, non-public and not aimed at reforming institutions – do not share the form or the goal of civil disobedience.¹¹

Finally, institutions secure a state of affairs that is not contingent on the happenstance good will of private individuals. Imagine a society whose economic institutions are unjust, but whose advantaged members happen to have an enlarged sense of ‘noblesse oblige’. So they privately redistribute their (unjust) gains to their least advantaged compatriots, and in doing so achieve a distributional state of affairs not different from that which a just set of institutions would obtain (assuming that this is possible without public institutions to impartially affect the redistribution, a problem as discussed above). So we have an end state that would be preferable to that of a similar society with the same kind of unjust institutions but whose inhabitants lack the same degree of generosity. Still we wouldn’t say that justice is realized in that society. The unjust effects of its institutions are offset by the good will of its inhabitants, to be sure, but this is hardly a stable situation or one that the disadvantaged can confidently count on and build expectations around. The happy distributional outcome is wholly contingent on the whim and fancy of the privileged. Just arrangements, on the other hand, ensure that a just distributional outcome does not hinge on the ‘arbitrary will’ of others (adapting here from Philip Pettit).¹² While interpersonally the inhabitants might appear to be on equal terms, the background institutions in fact betray a hierarchical society, in which domination of some by others remain in place.

Indeed we would prefer a society where persons grudgingly (but out of a sense of justice) comply with the requirements of just institutions, then one with unjust institutions but very nice people. There is a certain stability, reliability and legitimacy in the first that is absent in the latter.

My argument is not that in all cases, an institutional duty has to be performed. I only claim that the performance of this duty is necessary *if the realization of distributive justice is our goal*. It is entirely possible under some cases of moral trade-offs that we may, or even ought to, pursue ends other than that of distributive justice. We can easily imagine scenarios where it seems preferable to act interactionally than institutionally if

¹⁰ Civil disobedience, to cite Rawls, ‘is a mode of address taking place *in the public forum*’ (Rawls, *Theory*, p. 376; my emphasis).

¹¹ I should also note that the above is not meant to condemn vigilantism in all cases. In extreme cases of injustice, we can allow that certain forms of vigilantism are permissible if not even required. It would be absurd to say, for example, that using force unilaterally as a private individual to free slaves in a slave society is a violation of justice, or that it does not in some ways at least serve the cause of social justice. (For example, consider the actions of the abolitionist John Brown). But this is because, in cases of extreme injustices, especially (but not limited to) injustices that violate very basic civil and political rights, the very social order fails to meet the basic conditions of legitimacy, and unilateral acts against such a system should be seen as an attempt in the first instance to dismantle the thoroughly corrupt order with the ultimate goal of establishing an alternate *just* order in its place. Vigilantism in some extreme cases can be seen as revolutionary acts, and a revolution is an institutional response to extreme injustice.

¹² Philip Pettit, *Republicanism* (Oxford: Oxford University Press, 1997).

we are forced to choose. The main point is that we have to concede in these unfortunate cases that justice is neglected.

One way of accepting the possibility of such trade-offs without surrendering the primacy of justice is to invoke the argument that the circumstances of justice need not obtain under certain severe moral situations. For example, following Hume, we can accept that in extreme desert island situations (where there is abject and absolute scarcity), concerns of distributive justice cannot arise. Hence other moral responses, in particular interactional ones, will be more appropriate. The key point here is that even though an interactional response in such cases does more good, and is perhaps even the morally preferred course of action, this is compatible with the institutional thesis that justice is not being realized.

To expose and examine an implication of my necessity claim, consider the following example. Suppose person *A* campaigns to further international trade law, furthering the creation of just global institutions in this way. In contrast, person *B* contributes time and money to a charity that is improving water access in a poor village, her reasoning being that people have a right to subsistence and that she can do something to improve their condition in this direct way.¹³ To accentuate the contrast, let's take it to be the case that *B*'s response has no direct institutional implications. It simply improves the lives of people in the village without correcting the structure injustice in the background. My account takes it that person *A* is realizing justice but not person *B*. But does this not sound counter-intuitive, a critic might ask?

So my thesis takes what seems counter-intuitive to some to be a feature of the institutional account. Thus let me assuage this concern by reiterating some of the above points. First of all, person *B* is responding to an injustice, that is true. But her action does not have the affect of realizing justice because if the background institutional rules remain as they are, then the problem that *B*'s contribution is remedying will remain in effect. As noted, this will be a band-aid response rather than an attempt at realizing justice. Second, and more importantly, there is the problem of partiality and lack of accountability in *B*'s personal action. Why *that* particular charity and *this* village, and not some others? Why *access to water*, and not access to education, or availability of roads and basic health care? And to whom is *B* and her charity accountable for their selection of cause and beneficiary, and the level of success of their efforts? If justice is ideally to be impartial, public in design and execution and accountable, person *B*'s efforts, commendable as it is, is partial, personal and non-accountable. This worry is compounded by the fact that personal charitable contributions are tax-deducted. So shouldn't there be public accountability for these charitable activities, contributions and their targets? Finally, the villagers benefitting from *B*'s personal acts are benefitting contingent on *B*'s and the supported charity's largesse. Unlike an institutional change that *A*'s actions try to affect, a certainly unreliability and arbitrariness remain in situations like person *B*'s.

Again, the point is not that person *B* is not doing any good; in fact she is performing admirably on the front. The question is whether she is also discharging her obligation of justice. The institutional account says 'no' and the reason for holding this is hardly counter-intuitive, for it turns on a plausible account of what justice is. Person *B* is

¹³ These examples, and the question that follows, are drawn from Nigel Dower's comments at the *Societas Ethica* conference in Linköping, 2015.

not acting on her duty of justice even though she is acting permissibly and in fact is serving some moral end. This distinction is not merely semantic, since it tracks the difference in forms and substance of an institutional action versus and interpersonal one. The point is not to then cast blame on *B* as a moral failure, but to clarify what is it that justice requires. To say that justice necessarily requires an institutional focus is not a trivial point but rather elucidates what it is that ideal justice must strive for. It makes the significant substantive, and not counter-intuitive, point that person *B*'s actions are not sufficient for realizing global justice.

The Sufficiency of Institutional Responses

I now turn to the other prong of the strong reading of the institutional duty. This, to recall, is that the institutional duty sufficiently exhausts individuals' responsibility of justice. I'd suggest that this sufficiency claim is not as problematic as it might seem at first glance.

First, the institutional duty provides a target and a cut-off for one's duty of justice. Defining our responsibility institutionally thus allows a way of balancing both the demands of justice and our individual pursuits. An alternative view that says we ought to do all we personally can to promote justice in society will require that we give up personal and associational pursuits that are part of any rich moral life. Even if the alternative does not say that we have to do *all we can* in our personal actions, that it requires personal actions beyond working together with others towards better institutions seems to eliminate a practicable way of marking the limits of the duty of justice. If the ends of justice have to be balanced against reasonable personal permissions (to pursue ends other than that of justice), an institutional focus provides an account of the site of justice that allows for this balance.

But even though the institutional duty offers a way of reasonably limiting our responsibility of justice, it can hardly be faulted for trivializing or downplaying this responsibility. The duty to do one's part to create just shared arrangements can be, to the contrary, quite demanding on individuals. And the more extreme the absence of just institutions, the more demanding this institutional requirement of justice is.

Where just arrangements are in place, the institutional approach provides a means of demarcating the demands of justice and the demands and concerns of personal life. The institutional approach thus preserves room for individual pursuits consistent with the needs of justice. But where just institutional rules are absent, the institutional view does not insist that individuals may do whatever it is they could do were just arrangements counterfactually present. Rather, since the space for individual pursuits is defined against the requirements of justice, the division between the needs of justice and personal life space for individual pursuits has been recalibrated under non-ideal conditions.

Where there is injustice to be responded to institutionally, instead of simply complying with and supporting just institutional rules as in the ideal case, individuals are now required to take more active and additional steps of helping to establish just institutions. We can expect this additional demand of justice to be more exacting than the injunction to support and comply with existing just rules. Accordingly, since the duties of justice set the parameters for personal pursuits, we can expect that the space for personal pursuits will be reduced in the context of injustice. For a crude example, time that could

be given over to personal pursuits when there are just institutions will now have to be devoted to the cause of furthering just institutions.

Thus the institutional duty, even though it provides a method by means of which to preserve space for personal pursuits alongside the pursuit of justice, it cannot be faulted for trivializing the responsibility for justice. Institutional duties can be demanding, and institutional duties in the context where just institutions are absent can be even more demanding.

In addition to the institutional duty not being objectionably under-demanding, it should be pointed out that this duty does not exhaust all *moral* duties persons can have. Even in an ideally just society, there will be plenty of occasions for interpersonal acts of beneficence. A fellow citizen can suffer misfortunes like a sudden illness, unforeseen economic difficulties and so on, even where just institutions are in place. The institutional approach does not deny then that beyond our duties of justice (to comply with just institutional rules in this case) that there will also be other moral duties we owe to others interactionally. *A fortiori*, there is no reason to think that the space and need for interactional duties of beneficence shrinks or disappears where just arrangements are absent. (One might even make the stronger claim that demands of beneficence will likely increase in context of injustice, but I will leave aside this complicated point here).

Thus the sufficiency claim, that doing our part institutionally sufficiently discharges our responsibility of justice, is not as morally parochial as it might sound if we recognize that there are other moral demands on us beyond the demands of justice.

Now this might sound like another semantic move – an attempt to rescue the institutional thesis by calling other moral duties another name. But, in reply, the distinction between duties of beneficence and duties of justice is more than semantic. Call these classes of duties what we want, there are nonetheless important substantive differences between them.

A key one is that duties of beneficence are imperfect and subject to agential discretion. An imperfect duty is still a duty, but, to cite Kant, it gives ‘permission to limit one’s maxim of duty by another (e.g., love of one’s neighbor in general by love of one’s parents)’.¹⁴ But an institutional duty, as a duty of justice, does not permit the limiting of the maxim of this duty by another.

That duties of justice are perfect and duties of beneficence are imperfect supports a second important substantive difference between the two. This is that justice has a certain primacy over beneficence. The institutional view notes two ways in which justice has primacy over beneficence. It has *normative primacy* in that acts of beneficence that are contrary to the requirements of justice are in general prohibited. That is, I have a *pro tanto* obligation not to steal that which is rightly Jane’s to give to needy John. Second, justice has what we can call *ontological primacy* in that it is justice that determines the possibility and scope of beneficence. Beneficence is the redistribution of something that is mine to another who needs it. But this means that we need first of all an account of what is rightly mine, and this requires some account of distributive justice.

Finally, an institutional response can also incorporate duties of reparations for past or prevailing injustice. The sufficiency claim does not deny this. What it will say is that reparative duties, in so far as they are in response to the results of unjust

¹⁴ Kant, *The Metaphysics of Morals*, translated by Mary Gregor (Cambridge: Cambridge University Press, 1991), p. 194.

arrangements, must themselves be institutional in form. The effects of unjust economic institutions are diverse – it can result in the lack of access to decent education, adequate nutrition, good health care, fair equality of opportunity and so on. And it will affect many individuals in different ways. So which social cause (i.e., which injustice) do we take up and try to readdress, and for which particular set of individuals? To take reparative duties for *institutional* injustices into our own private hands risks violating the impartiality and publicity conditions of justice. The sufficiency claim affirms that unjust arrangements can generate reparative obligations on us. What it maintains is that to be properly reparative duties of *justice* in response to structural injustice, they have to be directed at, and enacted via, institutions. Thus reparative duties are to be counted as part of our overall institutional duty, and when all dimensions of our institutional duty are discharged, we have sufficiently realized our responsibility for justice.¹⁵

In sum, the claim that an institutional response exhausts an individual's responsibility of justice sounds less objectionable if we note that (i) this duty is hardly minor or trivial, (ii) that it does not exhaust all moral commitments that we can owe to each other, and (iii) that it does not deny the importance of reparative justice. (What it holds, with regard to the last, to reiterate, is that reparations for structural injustice should also be institutional in form, not interactional).

The advantage of the institutional view is that it maintains that even when just arrangements are absent, individuals are still entitled to realize their ends so long as they are doing their share to create just arrangements. It does not require individuals to morally impoverish their personal and associational lives in the furtherance of economic justice in their society.

To close this section, let me try to gather some of the underlying intuitions behind the institutional view by considering this objection. What if there is a pre-institutional wrong being committed? Don't persons have some morality responsibility, as a matter of the morality of what we owe to each other, to address this wrong non-institutionally? For instance, isn't slavery a wrong quite independently of institutions, and so accordingly, don't we have a non-institutional duty to address the wrong of slavery whenever we come upon it?¹⁶

In reply, the institutional view does not deny that there are non-institutional moral duties based on rightness and wrongness, but the morality of right and wrong is not co-extensive with the domain of justice. For the institutionalist, justice is concerned with what we owe to each other, so in that sense it is related to the morality of right and wrong. But it is concerned with right and wrong as these are mediated and informed by institutional relations. So, the institutionalist does not say that the institutional duty exhausts all moral duties of right and wrong; there can be moral duties owed to others as a matter of right. One might again insist that this is merely definitional, but again this will be a mistake. For the duties we owe to others as a matter of right non-institutionally and the duties we owe to them as a matter of right via institutions are very different forms of duties. Indeed, to turn the tables on the critic, to ignore this difference is to render the right and justice interchangeable, rendering one or the other concept (right or

¹⁵ The discussion focuses on reparations due to unjust arrangements. The case of reparations due to an agent's failure to comply with existing just rules can of course take the form of an interactional response.

¹⁶ This objection is prompted by Nigel Dower's comments.

justice) redundant. But to the extent we think the concept of justice has significance beyond that of the concept of right, it is the institutionalist that has the upper hand.

Moreover, the institutionalist draws attention to certain human relations that are fundamentally institutional in character. Take slavery as economic system of extreme injustice. For the institutionalist, slavery is obviously a moral wrong against individuals. But it is not merely or most importantly a wrong committed directly by some person against another. Slavery is an institutionally governed and sanctioned economic practice. It is a practice supported and reinforced by entrenched political and economic structures. Individuals are wronged by other individuals, under this arrangement, but the wrong has an institutional character. It is in this sense not just a severe wrong against individuals but an injustice against them.

The thrust of this section is to unpack one of the reasons for rejecting the sufficiency thesis. If the reason is that it seems insufficiently demanding of individual moral agents, then, as I have tried to suggest, this concern is unfounded. But if the institutional view becomes demanding, does it not collapse into some non-institutional approach, some might ask? The answer is no. What distinguishes the institutional approach from non-institutional approaches is not the issue of demandingness per se. What makes the view institutional is its emphasizes on institutions, and the division of principles it provides between the institutional and the personal. That individuals can have more demanding responsibilities in the absence of just institutions (since they now have to take steps to create just institutions) does not obviate the institution/personal divide that is basic to the approach. The duty of individuals is institutionally specified in terms of its target.

The above raises the question of what the limit of one's duty in this regard is. So, how does the institutional approach help in this case, one might ask? But the problem of determining individual's fair share in a collective moral task is not a problem unique to the institutional approach, and it is not the case that should the institutional approach specify some notion of fair share of persons' duty to create just institutions that it becomes indistinguishable from non-institutional approaches. The following remains quintessentially an institutional principle: in the case of unjust arrangements, one discharges one's duty of justice so long as one does one's fair share in helping to create just institutions. What makes it a quintessential institutional view is the idea of creating just institutions. The specification of 'one's fair share' is incidental to the approach.

Global Beneficence v. Global Justice

I have been speaking abstractly about economic justice and institutions. But the implications of my remarks for global justice more specifically can be easily inferred. The paper presumes two things: that the institutional approach is the right way to think about justice and global justice can indeed take an institutional form. Our question, then, is what duties do individuals have where just global institutions are lacking?

The obvious one is that in the absence of just global arrangements, our individual responsibility of global justice is to do our part (personally but more realistically in association as citizens of states) to help bring about just arrangements. Interactional responses on their own cannot secure global justice, and stand in risk of violating the ideals of publicity, accountability and impartiality. Thus, global philanthropy, by this I refer to programs and actions taken by private associations to promote certain causes of

their own choosing, can present certain moral challenges. An implication of this is that any theory of global beneficence or ethics has to presuppose some account of global justice.

The more controversial point is that when we are doing our share to create just institutions, global justice requires no more of us. (That is global justice does not require more than just global institutions). The appeal of this claim is that it allows personal and associational life to proceed even when economic justice is not fully realized. To hold the converse, that no personal or associational pursuits can be morally legitimate while unjust institutions remain the case seems implausible. The immediate worry with this claim however is that it seems too glib, especially in the face of the gross global injustice we face. To temper this concern, I reiterate that doing our share to create just institutions is hardly insignificant and under-demanding. It can require a lot from us, and in the current global order, it will require a significant recalibration of our understanding of personal and national pursuits. It should also be reiterated that global justice does not exhaust the whole of our global moral responsibility to each other. Duties of global beneficence remain at play whether we live in a just global order or not.

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