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Role	Name	Affiliation
Principal Investigator	Prof. Ashutosh Kumar	Department of Political Science, Panjab University CHD.
Paper Coordinator	Dr. Jayati Srivastava Shibashis Chatterjee	Associate Professor, School of International Studies, Jawaharlal Nehru University, New Delhi. Professor, Department of International Relations, Jadavpur University, Kolkata
Content Writer/Author (CW)	Reva Prakash Senior Research Fellow (UGC)	SIS, JNU, New Delhi.
Content Reviewer (CR)	Dr. Jayati Srivastava	School of International Studies, Jawaharlal Nehru University, New Delhi.
Language Editor (LE)	Dr. Jayati Srivastava	School of International Studies, Jawaharlal Nehru University, New Delhi.

Module: Future of the International (for Global Justice)

Global Justice

Introduction:

For a major part discussions and understanding of justice has remained tied to domain of domestic and state is seen as guarantor of justice in the national domain. However, as the forces and processes of contemporary globalisation continue to integrate different parts of the world into a global economic system, so have the arguments for expanding the scope of Justice gained greater traction in both academias as well as in the social sphere. The effects of laws and policies of one country have effects that transcend the national geographic boundaries. Justice in these cases, thus, does not remain a reserve of the nation-state alone.

Thus, for past three decades or so, the idea of justice on a global scale has come to animate both the philosophical and theoretical debates as well as the actions stemming from our understanding of the notion.

Questions such as - what is just, what constitutes justice, what are the procedures to ensure justice, who dispenses justice – have been debated for a long time and have been answered differently in various societies depending on the context and the socio-economic-political situation. Long history of European colonialism and the western hegemony over knowledge and knowledge systems have also come to mean that our most accepted definitions also stem from western political philosophies, debates on modernity and classical ideals in liberal theories.

There has been a growing trend in the post-colonial societies to both unearth their own philosophical schools of understanding and to test their applicability in the contemporary times. However most of our discussions still continue in the legacy of western liberal thought with modern nation-state as the primary reference of inquiry and understanding. It is in the same frame that the paper will seek to discuss the issue of global justice. The paper does not undertake to do an exhaustive study and is aimed at providing an overview of the philosophical debates and some of the most important themes under it.

What is Justice?

A cursory look at human being present situation will reveal to any observer that the world is not just. While there are nations, communities and individuals that are rich, affluent, secure, healthy, educated, on the other hand there those that suffer from crippling poverty, live in conflict-torn areas, are malnourished and hungry, do not have access to education (primary or secondary). The effects of contemporary economic globalisation are also non-linear across the world. It benefits the affluent and the rich nations and individuals more than it benefits the poor nations and individuals. Thus, we live in a world that many argue is unjust. But what does this idea ‘the world is not just’ entail? Is equality an important attribute of it? To understand it we need to first grapple with the concept of Justice as it is understood within the boundaries of a nation-state and then move on to understand the different ways of approaching the question of Justice in a global domain.

Justice, as Andrew Heywood puts it is an ‘archetypal example of an essentially ‘contested concept’ (Heywood 2004:173). It is to say that Justice in different domains implies different things. Very broadly it means to give individuals their ‘due’ and can be understood as a ‘distributive concept’. What is due to each person and what are the grounds for such a distribution is deeply contested. However, it is important to note here that most classical liberal theories work with the idea of inherent equality or moral worth of all human beings being equal. It has at its very basis the individual and impartial nature of morality. This is compatible with people being unequal in external attributes like abilities, social circumstances, talents, temperament and attributes that individuals do not have complete control over, and thus are arbitrary. These arbitrary facts about an individual person can not diminish their moral worth and should not affect their access to resources and opportunities.

David Miller in his 1976 book, *Social Justice*, lists three contrasting principle of social justice. The principles being, ‘to each according to his *needs*’, ‘to each according to his *rights*’, and ‘to each according to his *deserts*.’ The two criteria- of need and desert are prioritised by different schools of thoughts to articulate different conceptions of Justice. The criteria of need imply that no matter what the individual capabilities of each person, their need must be satisfied. The concept desert or meaning to deserve implies that actions of individuals result in them deserving either some rewards or punishments. This is the basis of procedural justice.

The need-based arguments are used from Socialists to Egalitarians with different philosophical implications and questions relating to distribution of social goods and

responsibilities of members of a society towards less advantaged. While there are also Classical Liberals and Conservatives for whom human beings are self-striving and society is not responsible towards those less well-off (Heywood 2004: 296-7).

Justice, in common parlance is understood as connected with law. It can thus be broadly characterised as – Procedural and Substantive. Procedural justice implies that legal processes and procedures are guided by clear and specified rules to arrive at decisions for penalties, punishment, and compensations. Hence, the oft repeated phrase ‘due-process of law’. It means that when rules and procedures are clearly followed, it leads to just outcomes. Substantive justice refers to the ‘substance’ or ‘content’ of these laws. It is also linked to the critical question of legitimacy. A law seen as unjust will not enjoy the legitimacy and overtime will be challenged and in some cases revised or repealed. The laws have to be just to be binding i.e. not exploitative and discriminatory on any section of society (Heywood 2004: 183). For example, in the colonies the rules and laws that were applied were different for the ‘natives’ and colonial masters. Procedural theories of Justice work on their very basis work with the idea of individual entitlements and are not concerned with distribution. Thus, demands of Justice are satisfied if the rules are followed, but the unequal starting points as well as the effects of the outcomes are not important for procedural justice (Menon 2008:76).

However, another important strand in debate on the questions of justice in political philosophy concerns itself with social justice- and ‘deals with distribution of benefits and rewards in a society’ (Heywood 2004: 294). Therefore, who should get what and what are the considerations for deciding that.

An important distinction between aspects of procedural and social justice is evident in the debate between egalitarians and libertarians. There is an agreement between the two schools of thought about the moral equality of all individuals which translates into state treating people with equality without discrimination based on morally arbitrary facts with rule of law in a society, and individuals having equal rights and equal opportunities. However, the fundamental difference arises on the question of economic equality with regards to distribution of economic goods- wealth, income and money. For egalitarians, the demand for economic equality is not absolute but the inequality should be severely limited. Libertarians want the state to be guarantor of moral equality and procedural justice. As long as the laws and rules are fairly applied, they see no reason for government interference on accounts of

distribution of economic goods in a society. For them, liberty in a principle that assumes greater primacy if the moral equality of individuals is to be procedurally guaranteed.

Robert Nozick in *Anarchy, State and Utopia* (1981) explains his theory of Justice. He makes a critical distinction between the historical and end-state principles of justice. He argues that entitlements of an individual should be determined by their past action, actions in turn would determine the deserts. End-state principle means that distribution pattern conform to a set of goals (Menon 2008:77). He uses the analogy of a poker game to explain this. In this poker game, all players start with equal amount of money in the beginning. However the end result is not an equal distribution of the money. When played fairly with the set of rules properly applied and without a case of fraud, end result would be justified. Nozick allows for rectification only when unfair practices have been employed. He also makes another distinction and says that an exchange and/or acquisition must not worsen the conditions of others especially in the cases of goods that are essential to life. State's minimal role in the economy guarantees for him the individual liberties. Redistribution of resources by the state is what leads to inequalities in the society as such because it is an attack on individual liberty.

Egalitarians insist that this view of Nozick is severely limited in its understanding of economic goods and which ones are essential for life. For them, unlike libertarians and proponents of procedural justice, justice is not solely the property of an individual but is also an important feature of society (Menon 2008: 76). Egalitarians the very basis for inequality and thereby injustice in society begins by an arbitrary fact of birth in a particular family, class, community, gender, religion etc. Economic inequalities get perpetuated when a level-playing field is not created actively by the state and society. Individual liberties of a rich section of society on account of their birth in a particular class in itself a morally arbitrary fact which cannot itself become the basis for individual liberty.

Egalitarians thrust is on distributive aspects of Justice as they argue that state has a responsibility uphold the principles of Justice. They also make a strong case for redistribution especially in cases where individuals of a particular community have been historically discriminated and have been in a position of inequality of power and wealth. The egalitarian view is largely shaped by John Rawls's 1971 'A Theory of Justice'. It is one of the most influential works of twentieth century to shape the discourse and understanding of Justice in which Rawls reconciles Liberty and Equality in a Justice framework. Rawls himself rejected the label of Egalitarianism as he bases his theory on basic tenets of procedural theory

i.e the process of law should be followed meticulously (Menon 2008: 78). John Rawls work on Justice marks an important departure in political philosophy as his work becomes the reference point for philosophers to come. Rawls revives the social contract tradition and is premised on the idea that utilitarianism, the dominant theory of the day, does not take into account the injustices that arise out of resource inequality between individuals.

The central idea on which his 'general conception of justice' is based, states that 'all social primary goods-liberty and opportunity, income and wealth, and the bases of self respect- are to be distributed equally unless an unequal distribution of any or all of these good is to the advantage of the least favoured (1971: 303).

Kymlicka outlines that in this 'general conception', simple idea at the heart of Rawls conception is that inequalities are only allowed if they improve the initial equal share of individuals but not allowed if they invade into it (2002:55). To address the problem of conflicting distribution of different primary goods, Rawls uses the principle of 'lexical priority' as a solution. Therefore, the liberty can only be restricted for the sake of liberty. Similarly, in the order of priority – in second principle of justice, there is a clear priority of justice over efficiency and welfare and in that order. The principle of liberty takes precedence over the equal opportunity which takes precedence over equal resources (ibid:56). Thus, in his framework, Rawls clearly establishes that some social goods are more important than other social goods and the principles of justice that he arrives at reflect this. As Kymlicka points that Rawls' definition of liberty is also very specific to its meaning, the standard civil and political rights like right to vote, freedom of speech and expression, freedom of mobility, due process of law, to run for political office (ibid)

Rawls direct concern is with the prevailing question of equality of opportunity for economic distribution of goods. While Rawls also requires equality of opportunity in allotting positions, he denies that the people who fill the position are thereby entitled to a greater share of resources. A Rawlsian society may pay such people more than average, but only if it benefits all members of society to do so. Under the difference principle, people only have a claim to a greater share of resources if they can show that it benefits all members of society to do. Distributive shares should not be influenced by factors that are arbitrary from the moral point of view. Natural talents and social circumstances are both matters of brute luck, and people's moral claims should not depend on brute luck. The prevailing idea of equality of opportunity

is unjust as it does not take into account the social and natural contingencies on determination of distributive shares. From a moral point of view both seem to be equally arbitrary.

Social Contract as a expository device to tease out the principles of justice that people will decide from an original position. It is not an anthropological claim but a moral claim about the absence of natural subordination amongst human beings. His view of original position though corresponds with the idea of state of nature, but differs from it in very important ways. Rawls believes that state of nature is not an initial position of equality (1971:11) as the usual account of state of nature is unfair because some people have advantages over others in natural talents, initial resources, and sheer physical strength. To address this, he puts the people in original position behind a veil of ignorance so that no one is aware of their place in society or the value of their natural talents, physical strength, social status. This makes sure that no one is advantaged or disadvantaged in the choice of their principles by the outcome of natural chance or the contingency of social circumstances. No one can design principles benefitting their particular position. Original position thus 'represents equality between human beings as moral persons' and 'veil of ignorance' makes sure that people from original position decide on fair principles.

As Charles Beitz (1999) highlights that for Rawls, Justice is the first virtue of social institutions (pg 129). The "primary subject" of justice then is "the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation" (Rawls 1971:7).

Rawls proposes 'Justice as Fairness' based on two principles according to which the basic structure of society can be appraised:

- 1) Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others (liberty principle).
- 2) Social and economic inequalities are to be arranged so that:
 - (a) They are to be of the greatest benefit to the least-advantaged members of a society, consistent with the just savings principle (the difference principle).
 - (b) Offices and positions must be open to everyone under conditions of fair equality of opportunity. (Rawls 1971: 302)

Rawls believed that people would support these two principles “in a cooperative venture for mutual advantage” starting at an “original position” from behind a “veil of ignorance” where they would not have knowledge of their position and standing in the society. As mentioned earlier these principles are arranged in the order of their priority where in the liberty principle comes before the difference principle.

Rawls works within the contraction framework where rational individuals are united in their acceptance of conception of justice. His theory underpins equality as an essential attribute of Justice. The only time inequality was justifiable was if it benefitted the least-advantaged in the society. Thus, welfare and distribution measures are just if it benefitted the least-advantaged. Rawls’s, thereby, makes a strong exception to the distribution of resources based solely on the criterion of desert and equality of opportunity. Desert alone cannot fulfil the conditions of justice as an individual’s talents and merit are not a result of their own hard work but is also due to the circumstances they are in. If there must be inequalities, it must not be based on desert, and should be so arranged to benefit the worst-off in the societies.

Apart from these two principles, Rawls puts the focus on the institutions in a society. For him, states are means to an end. And if that end is justice then state institutions are means to achieve that end. In such a scenario institutions are placed under scrutiny to see if they are fulfilling the ends of justice in a society. If they are not, then it is important to effect change in them. In case such institutions do not exist, it is imperative to work towards their formation.

Rawls work has been centre of debate in political philosophy ever since it was published in 1971 with scores of critiques and extension of his idea. However, for our discussion, the points discussed above are the most relevant.

Justice on Global level?

The debate on the questions of global justice thus is mostly among the philosophers and scholars who argue for distributive justice in the domestic domain. However there are some ways in which procedural accounts of justice do appear in international politics. We will discuss that briefly first before we move on the debates on distributive aspects of global justice. There is also substantial difference between accounts of international and global. International literally means the between nations while global is also generally understood to encompass actors other than the nation-state and processes that are also beyond the complete

control of national governments. For our discussion we will use the term international and global as explained here.

Theories of International Relations like Realism and Neo-realism use the Hobbesian conception of 'state of nature' as one of their most fundamental assumptions. Thus, it is characterised by system of states without a legitimate centralised authority. In such a system, in the absence of a single centralised authority with sovereign right to use power to establish law and order leads to a state of anarchy, thus, a Hobbesian state of nature. In such a scenario, considerations of order are seen to take precedence over considerations of justice (Beitz 1999:181) and whereby justice is largely ignored. However, for Idealists, justice is a pre-requisite and constitutive of a stable order, and anarchy is not a given in absence of a centralised authority.

Apart from this major difference, International Law post-Second World War embodies some of the moral standards, rules and regulations, rights and duties of states for international justice. However demands for distributive justice for re-distribution of world's resources have not become embedded in international law. Though one can cite some isolated examples in treaties where re-distribution is institutionalised through funds like in the case of Montreal Protocol for a specific issue area, it is difficult to state that institutions found at international level are geared towards fulfilling grounds of justice, whatever they maybe.

Given the dissatisfaction with traditional International Relations theory in providing with a moral framework, and realities of an interconnected world with technological advancement render the idea of justice contained within the boundaries of nation-state limited in its scope, and in denial of the reality of a globalised world. The claims about world being unjust stem from concerns about massive inequalities on a global level that are a product of contemporary globalisation with its historical roots in colonialism, industrial revolution and an awareness stemming from the advancement in communication technologies. The concerns around human rights abuse by multi-national corporations and national governments, poverty, hunger, malnutrition, inequality, democracy, bioethics, trade, war and peace have manifested into several movements. The movements around the said issues mostly question the contemporary neo-liberal economic globalisation that has come to divide the world into haves and have-nots. One such movement that has the demand of justice in its name is the Global Justice Movement. It seeks to "present well thought out alternatives to traditional globalisation efforts...emphasis is on inclusiveness and abundance for all, rather than a

continuance of outmoded thinking and institution.”¹ However, it is not the only movement raising concerns of justice, but one is explicit in its articulation. There are whole hosts of trans-national movements with organisations from different countries coordinating their work and activities together on range of issues.² It is to be noted here that the movements are different from the theoretical challenges that are encountered while working towards a normative understanding of what constitutes Global Justice. However, these movements serve to underline important ethical issues and inform the questions that philosophers have in their quest towards understanding the concept theoretically.

In normative theory, theorists and philosophers strongly supporting strongly egalitarian principles in a society or the domestic domain are the ones who discuss the distributive and procedural aspects of Global Justice. Thus, it is a “dispute between among those who believe that inequalities must be severely limited to help the less well off, to combat unfair inequalities of power and to maintain the sense of moral equality that underlies a liberal society” (Landesman in Chatterjee (eds) 2011: 424).

For Libertarians or the theorists who feel distribution in society should be based purely on ‘desert’ and should be procedurally driven, do not support redistributive measures undertaken by the State. Therefore, it is easy to deduce that Libertarians would not discuss the concept of Global Justice as addressing inequalities globally require redistribution in resources (ibid). However, within Libertarians, there are also those who support the view that all human beings should have the opportunity to achieve a basic minimum level of well being. After this has been achieved, it is not required for them to seek re-distribution in the society. This view can be called Humanitarianism. So, while they will support a basic minimum level of well being for all human beings, they will not ask re-distribution between countries with unequal levels of wealth and welfare once the basic minimum is reached (ibid: 423).

Another strand of procedural account is found in the democratic theories in arena of international politics. Like the procedural theories in domestic sphere, it is argued that international law and policies are justifiable through an accepted legal process, based on the consent of the states. States that violate their domestic principles of justice or human rights can still claim legitimacy in the international sphere. Concerns of substantive justice hold equal relevance internationally too. International law and norms can create unequal outcomes

¹For more detail of the movement see www.globaljusticemovement.org

² See World Social Forum, Climate Action Network, Movement against Big Dams, Fair Trade Movement are some of the movements.

for different countries through following of due process due to unequal power relations manifesting in unequal capabilities. The substantive basis for procedures, rules, norms and processes are as important as the procedures in the work towards justice. There have appeal for changing the substance of different international laws to make them more just as well as for changing the structure of the international organisations and different processes to reflect the transformation in the world politics. However, there are arguments stating that in absence of a clear consensus on the various substantive aspects of justice internationally, deference to procedure though maybe utilitarian but serves as the best preserve of justice until agreement on substantive aspects are reached (Rocheleau in Chatterjee (eds) 2011 : 906).

Justice, in the domestic and national sphere, is articulated using social-contract theory by most philosophers i.e. to say that individuals are in a social contract with the state and derive their rights and duties from it while State has the sole authority to use legitimate force (see Hobbes, Locke, and Rousseau). For many to extrapolate the principles of justice from the domestic sphere to a global one is difficult in the absence of an analogous political community with something akin to a world government. There are two major arguments for this. Firstly, consensus on common principles of justice can only be between those who share a State. Secondly, only the State can be a guarantor of justice given its monopoly on legitimate use of force, and control over institutions that incorporate the norms and principles that lead to just ends. There are several strands of thought within this view ranging from liberal nationalists to communitarians that argue for a conception of justice applied within the bounded area of a nation state.

This division between the Global vs. Domestic becomes the first contention in the debate on whether and how the principles of justice in domestic sphere can be applied to the global. These views are broadly interpreted as Statists and contain within them several strands ranging from Social Egalitarianism, liberal nationalists to communitarians. Their central claim remains that justice is subject of the state though their reasons for arguing for such a case range from different assumptions.

Social Egalitarians argue that states have the duty to bring equality to their own citizens as justice is primarily an internal matter, and thus each state have only a duty within its own sphere. As long as all states are internally just, particular states do not have duties to address inequalities among humankind. Inequalities between societies that are internally just with inequalities in each society justified and limited are acceptable. Thus, a just world exists

when each society is just regardless of its general level of welfare. Given they are egalitarians; they hold that basic rights of individuals everywhere are respected and their minimum subsistence needs are met, and to the extent of fulfilling these basic humanitarian aims, they support redistribution in a society (Landesman in Chatterjee (eds) 2011: 423).

However, for many this Statist understanding of Justice is limiting for human beings as birth of an individual in a nation is a morally arbitrary fact. The interconnectedness of States and countries gives rise to a strong thrust towards broadening the definition of Justice and what it entails for individuals. This school of understanding is known as Cosmopolitanism. The individuals are seen as citizens of world rather than just the citizens of a nation-state. At its foundation is the view that social bonds exist between people as citizens of this world. An individual's birth in a particular country is a morally arbitrary fact and should not limit one's chances at leading a good life. The underlining assumption is based on the moral equality of all human beings and the place of birth or origin in a country, state, society should not have a bearing on the moral equality of an individual. Thus, sovereign states are not the primary and the sole arena of justice even though they have an important role to play in global justice. Only producing justice internally is not sufficient. States should not only work towards bringing sufficient equality to their own citizens but also work towards promoting equality worldwide (Landesman: 423-424). Fundamental principles of distributive justice should apply to all human being regardless of the fact of the country of their birth.

As a starting point, let us go back again to Rawls. He uses the domestic society with its basic structure as the site for cooperative ventures of mutual advantage and arrives at the liberty principle and difference principle. In international sphere, the results obtained are through the representatives of peoples in the International Original Position (IOP) who arrive at markedly different principles as it is not obvious which international institutions have a basic structure in the relevant sense. In IOP, participants have knowledge of the fact that they are representatives of nations leading normal lives, but without the knowledge of the particular circumstances of their nations. The participants chose the principle of equality which translates that every nation has the equal right to self-determination without interference from the other nations. These principles are criticised on the ground of what is arrived at by people in the original position in a domestic self-contained society. Many argue that the non-interference and non-aggression are minimal liberal principles and participants in the IOP might also argue for a difference principle that benefits those with less endowment of natural resources.

Charles Beitz in his 1979 book 'Political Theory and International Relations' argues that Rawls's assumption of national societies as self contained is not valid given the interdependence of the nations at global level. Therefore, there is no need for a second contract at international level between the state representatives. Furthermore he contends that the principles that will be teased out from the international original position would be analogous to the ones agreed in the original position from behind the veil of ignorance. In IOP, representatives would not accept the principle that natural resources belong to the state whose territories encompass them as it is arbitrary. Beitz argues that the existing distribution of natural resources is arbitrary and no state deserves its endowment. Thus, from behind a veil of ignorance, representatives would not know if their own states were richly endowed or not, in such a case they would seek to arrive at the difference principle where resources are distributed equally by way of a wealth tax. He, thus, argued for a global application of Rawls's Theory of Justice where the difference principle becomes the global difference principle where the inequalities in allocation of primary goods are only allowed when the position of the globally represented disadvantaged people is improved. He also finds it problematic to derive principles at the level of group as Rawls proposes for the international level, instead of the levels of individuals (pp 80).

Beitz's 'Political Theory and International Relations (1979), demonstrated the importance of ethics and political theory in international relations. He offered what is believed to be the first most persuasive argument for global principles of justice at the time. Beitz repudiates the Hobbesian state of nature claims of realist and non-realist theories of international relations that makes moral judgements inapplicable in such a setting. According to him, state of nature argument is both empirically false and theoretically untenable given the levels of interdependence along with inequality of power and wealth at global level. In addition to that, he also critiqued the autonomy of states assumption as the justice or lack of it in the state's domestic institutions. He applies the contractarian logic of Rawls's original position and veil of ignorance to the international sphere, generates a cosmopolitan transformation of Rawls' theory. He argues that correct application of Rawls' Theory of Justice justifies a global resource distribution and global difference principle to establish a fair division of resources of wealth among persons situated in diverse national societies.

Theorists such as Michael Walzer (1977, 1992), strongly argue that at international level states have rights of autonomy that insulate them from external moral assessment and political interference from other states. He further argues that general duty towards other

human beings will be over ridden by the special obligations individuals have towards their family, community or nations. Thus, for Walzer abstracts principles of cosmopolitan view are not rooted in specific contexts and cannot be used to globally apply.

However, Rawls in his 'Laws of Peoples'(1993, 1999) reiterates his initial position that the principles of justice are derived differently in the domestic society than in international system or as he puts it between the 'peoples'. For individuals, the rights are derived at domestic level, and for peoples the laws are derived internationally. For purposes of theory, Rawls says that it is important to assume that societies are self contained cooperative schemes for mutual advantage. At international level, he writes that 'this account of Laws of Peoples conceives of liberal democratic peoples (and decent peoples) as actors in the Society of Peoples, just as citizens are the actors in domestic society' (1999: 23). It is important to note the important distinction Rawls's makes between peoples and state in an international setting to foil the arguments of Realist and Neo-Realist camps. Thus, iterating that "if a state's concern with power is predominant; and if its interests include such things as converting other societies to the state's religion, enlarging its empire and winning territory, gaining dynastic or national prestige and glory, and increasing its relative economic strength – then the difference between states and peoples is enormous" (1999: 28).

International Original Position is reframed as the Second Original Position (SOP) and what are selected are more the principles that detail the fundamental rights and duties of 'Society of well ordered people' and as guiding foreign policy than are an argued case for distributive justice.

According to Rawls, the principles chosen from SOP are the following:

1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
2. Peoples are to observe treaties and under takings.
3. Peoples are equal and are par ties to the agreements that bind them.
4. Peoples are to observe a duty of non-intervention.
5. Peoples have the rig ht of self-defense but no rig ht to instigate war for reasons other than self-defense.
6. Peoples are to honor human rights.
7. Peoples are to observe certain specified restrictions in the conduct of war.

8. Peoples have a duty to assist other peoples living under unfavorable conditions that prevent their having a justor decent political and social regime (1999:37)

This list of principles is subject to interpretation and according to Rawls, interpreted in the right way, the principles will ensure that they are fair to all and parties representing them will not reject them. His criteria for a decent society together with his list of derived duties and rights provide foundational content for a reasonably just system of international law. There is an important development from his earlier formulation especially in the eighth principle 'duty to assistance' which includes the distributive elements with a view to helping the 'burdened societies'.

Beitz's position also evolves from his original argument of extending the principles of distributive justice to global sphere. He bases his argument on the Kantian moral equality of people and not so much on the contractarian framework as an expository tool although degree of interdependence between societies and nations has only increased since the publication of his book in 1979. In the afterword of the 1999 edition of his book, he demarcates between weak and strong theses of global distributive justice or respectively distinction between moral cosmopolitanism and institutional cosmopolitanism (1999). According to him, it is difficult to contain all the requirements of justice across diverse societies, institutions, laws and norms at different levels within a single normative framework. Membership in a political or an institutional structure would always mediate the standards of justice as they are applied to individuals. Thus, the requirements of social justice would vary depending on both - context and urgency. Thereby, he also rejects that understanding that human rights should become the standards for international social justice as international community cannot take complete responsibility of all components societies.

For Beitz a uniform normative theory of global justice is a difficult proposition because the appropriate subject for such a theory does not exist. It is however important to that as far as possible, normal functions of global institutions should result in distributions that are regarded as just. So while in Beitz earliest formulations we see that he argues for human rights as derivative of social justice, he changes it stance and argues that human rights are normative constructs and a result of post second world war period and play a discursive role and are not as such an evolution of natural rights as it is commonly assumed to be in the human rights literature. The discussion on human rights though an important subject within global justice would not be discussed here. For our purposes, we need to investigate the

claims made for justice on a global level and the different variants in it. However, Beitz's influence on the debates on global justice has been significant and come to inform the Cosmopolitanism view.

Thomas Nagel (2005) in his essay 'The Problem of Global Justice' writes that the distributive principles in Rawls's Theory of Justice cannot be delinked from its political aims. According to Nagel, Rawls principles and its application is are a justification for a coercive legal system, and without it all claims of justice outside of state are negated for lack of presence of a coercive legal system. Justice, for Nagel, as moral value is an important attribute of a coercive system, and thus justice as a moral value without a system that can coerce individual in the name of justice is not a possible scenario.

Global Distributive Justice:

Thomas Pogge has expounded of the strongest and most extensive arguments for global justice using principles of distributive justice.

Firstly, theoretically to make the argument that the principles of distributive justice that are derived in the domestic setting of nation-state it is imperative for the theorists to show that something akin to a basic structure exists globally. Beitz and Pogge both argue that international trade and the institutions deciding the framework and the allocation of advantages of the trade between international actors can be said to represent a basic structure as it is a site for cooperation where the principles of justice ought to apply. Beitz states that 'If evidence of global economic and political interdependence shows the existence of a global scheme of social cooperation, we should not view national boundaries as having fundamental moral significance. Since boundaries are not coextensive with the scope of social cooperation, they do not mark the limits of social obligation. Thus the parties to the original position cannot be assumed to know that they are members of a particular national society, choosing principles of justice primarily for that society. The veil of ignorance must extend to all matters of national citizenship, and the principles chosen will therefore apply globally" (Beitz 1979:151).

This view is contended by Brian Barry as he argues that act of trading goods and services in itself cannot be said to represent a cooperative venture, for example the spice trade between east and west was not a cooperative enterprise (Barry 1982:233). Thus, people and

communities engaged in trade do not moral duties towards one another that are similar to those sharing a nation, and/or a community.

Apart from this, to keep the application of principles of Justice to all individuals Pogge argues that the issue of nationality is that of moral arbitrariness. He states, 'Nationality is just one further deep contingency (like genetic endowment, race, gender, and social class), one more potential basis of institutional inequalities that are inescapable and present from birth. Within Rawls's conception, there is no reason to treat this case differently from the others. And so it would seem that we can justify our global institutional order only if we can show that the institutional inequalities it produces tend to optimize (against the backdrop of feasible alternative global regimes) the worst social position' (Pogge 1989: 247). Justice need not apply only to the institutional order of a bounded state.

Following from the logic, he further argues that, the Rawlsian egalitarian difference principle which allows social institutions to generate socio-economic inequality only to the extent that it benefits the worst-off in should apply globally. The global institutions may generate socio-economic inequality only insofar as this is maximally beneficial to the world's poorest people. In Pogge's conception of global justice, just as in Rawls's Idea of Justice, thus the centrality of institutions is of critical importance towards realising the difference principle. Rawls propounded that social institutions be subjected to scrutiny to evaluate whether they are fulfilling the goal and purpose of justice as listed in the principles. In case where they fail, the institutions need to be redesigned or new institutions be set-up to leave fewer people in poverty. This is what justice requires.

Pogge argued that the global institutions that exist are directly violating the rights of the poor people. While others cite the role of institutions in systemic poverty and discrimination with a view to excuse the role of rich individuals, Pogge cites them to lay the blame squarely on the rich as the institutions that they control and set the agendas of. These global institutions have been created by and benefit the wealthier and powerful nations of the world. Global poverty that exists is not simply a problem of lack of humanitarian assistance but is a direct result of the workings of the global institutions that bend the scales in favour of the wealthier countries and violate the rights of the poor people to decent and fulfilling lives. Thus, richer countries do not simply have a duty to assist but they have violated the negative rights of poor people to protect themselves from harm, and are thus morally responsible for the global poverty and the crippling scale at which it exists. The moral questions should directly concern the

supranational institutions that exist coupled with a push towards creating desirable relevant institutions that will fulfil the requirements and needs of justice (Pogge 2002, 2010).

Thus, poverty on a global scale is not simply a problem that can be eradicated by humanitarian aid and assistance from the rich to the poor. It is a problem where the negative rights of people are being actively and systemically violated by imposition of a burdensome world order which serves their interest. Pogge critiques WTO and uses as an example to illustrate his point. He argues that WTO has worked to ensure that markets of developing countries are open to the goods and services of the developed countries. The developed countries resort to protectionism and do not open their markets in proportion to what they demand from developing countries, thus enjoying disproportionate benefits of free trade. WTO also serves to impose indirect trade barriers that negatively impacts the producers and exporters in the developing countries (Pogge 2008:18). Developing countries had for very long argued against the protectionist measures that developed countries resort towards the agricultural produce of developing countries, while at the same time pressurising developing countries to open up markets for the same products from the rich developed countries. WTO and its intellectual property rights regime also serve to restrict the access to essential pharmaceutical goods. The IPR regime has also been criticised for perversely encouraging bio-piracy by the big corporations which have systemic implications for the poor farmer.

Pogge uses the criteria negative rights of poor people of safety from harm and negative duties of rich to not harm other people as the normative basis for his position (Pogge 2008: 13-15). Therefore, unlike other theorists like Henry Shue (1980) and Pablo Gilabert (2005) who argue that wealthier countries and individuals have a positive duty to provide help to eradicate poverty, Pogge argues that it is the negative duty that the rich have towards the poor though he does not reject the positive duties and argues “We do, of course, have positive duties to rescue people from life-threatening poverty, but it can be misleading to focus on them when more stringent negative duties are also in play: duties not to expose people to life-threatening poverty and duties to shield them from harms for which we would be actively responsible” (Pogge 2005: 5).

Many point out that the oppressive and corrupt governments of poor countries are also to be blamed for bad governance and lack of political will to do away with poverty and aspire towards establishing just institutions. Pogge’s contends that while there is no denying the role of kleptocrats in exacerbating the systemic causes of poverty domestically, the role that

international institutions play to facilitate exploitation and support the corrupt national governments for the benefit of the wealthier nations and individuals cannot be ignored.

Here he also points to the international resource and borrowing privilege that the head of states have to sell the resources of their countries and borrow loans in the name of their country and its people. As long as the representative is able to effectively control and oppress the people of a country, it has the ability to speak on their behalf at international treaty making. Thus, the privilege is enjoyed equally by those that are corrupt and are not elected democratically, and plays a causal role in perpetuating corruption and poverty. These privileges are not accidental but are kept in place for the benefits of the developed countries and the corrupt elites in the resource rich developing countries. “Local elites can afford to be oppressive and corrupt, because with foreign loans and military aid, they can stay in power even without popular support. And they are often so oppressive and corrupt because it is, in light of the prevailing extreme international inequalities, far more lucrative for them to cater to the interest of foreign governments and firms than to those of their impoverished compatriots” (Pogge 2008: 238-295). This resource privilege effectively ensures that the natural resources and raw materials flow from developing countries to the developed countries making them wealthier. The borrowing privilege also works in favour of the developed countries as the financial institutions housed in these countries are able to give loans at exorbitant rates of interest which put the developing countries and their populations in compromised positions and in a debt trap.

Pogge has made two concrete proposals to address the problems that he identifies. First, he has along with Aidan Hollis proposed a way to incentivise research in pharmaceutical called the Health Impact Fund (Hollis and Pogge 2008). Secondly, he has proposed the concept of global resources dividend (Pogge 1998).

Pogge’s conception has been criticised by several theorists. The most common criticism is that Pogge’s causality and assumption with regards to global institutions causing poverty is cannot be that easily support given the complex nature of global institutional set. Flowing from this is the criticism that the role of institutions in causing is not having a baseline against which to measure the result.

In his criticism of Pogge, Alan Patten, raises several points to show why Pogge’s causality of establishing the causes of global poverty and arguing for a distributive principle of justice at global level is flawed. Patten argues that Pogge arrives at a maximalist conclusion with

regards to the duty that rich have towards poor from the minimalist normative premise of negative duty (Patten 2005:20). According to Patten, Pogge does not clearly demonstrate how the causes that he attributes to international factors and global institutions are responsible for poverty. For him, Pogge also seeks to underplay the role and degree that domestic factors play in causing poverty, and to make his case, Pogge overemphasises the role of international organisations (Patten 2005: 21) To most of Pogge's critics, his argument that global institution set controlled by wealthier countries cause poverty.

The debate about whether or not global institutions are responsible remains unsettled. However, we see that many theorists like Rawls, Beitz and Pogge have argued about the form and reach of the idea of global justice and the appropriate context to theorise a justice relationship.

