

Cosmopolitan liberalism and the faces of injustice in International Relations

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The public and the private worlds are inseparably connected. . . . The tyrannies and servilities of the one are the tyrannies and servilities of the other.¹

The most significant intellectual contribution of Charles Beitz's book, *Political Theory and International Relations*, was captured by his use of the word 'and' in the book's title to connect the previously estranged fields of political theory and international relations (IR). His book constituted a bold challenge to a prevailing realist view in the field of IR, that was sceptical 'about the status of moral principles' in a Hobbesian state-eat-state world.² Beitz's work also challenged the traditional orientation of contemporary political theory, that took for granted the bounded rather than 'universal community' as the locus of inquiry about issues of justice and political morality. The marriage of political theory and IR has produced in the past twenty-five years a rich and diverse body of international political theory that engages, in a direct and rigorous fashion, previously obscured or marginalised normative dimensions of international issues ranging from war and intervention to global poverty and economic inequality.

Beitz argued in *PTIR* for a cosmopolitan conception of international morality that is 'concerned with the moral relations of members of a universal community in which state boundaries have a merely derivative significance'.³ He has subsequently clarified his position as a version of cosmopolitan liberalism, an offspring of 'individualist moral egalitarianism', that evaluates the morality of domestic and international institutions based on 'an impartial consideration of the claims of each person who would be affected'.⁴ Cosmopolitan liberalism weds the cosmopolitan

¹ Virginia Woolf, *Three Guineas* (London: Hogarth Press, 1938).

² Charles Beitz, *Political Theory and International Relations*, 2nd edn. (Princeton, NJ: Princeton University Press, 1999 [1979]), p. 186.

³ Beitz, *PTIR*, pp. 181–2.

⁴ See Charles Beitz, 'International Liberalism and Distributive Justice: A Survey of Recent Thought', *World Politics*, 51:2 (1999), pp. 269–96, at 287.

idea that 'every human being has a global stature as an ultimate unit of moral concern' with a liberal focus on the individual as a free and equal person.⁵ A cosmopolitan liberal theory of global justice thus begins with a conception of humanity as a common moral community of free and equal persons.

Such an approach to international morality entails positing a fundamental continuity and deep interconnection between international and domestic politics and morality.⁶ Indeed, one of the most significant aspects of Beitz's work is his continual questioning of the empirical and normative significance of the international/domestic distinction. Challenging this distinction has enabled Beitz to contest not only the separation of moral and political theory from international relations; it is also integral to his critique of the priority for compatriots thesis in matters of global economic distribution, as well as his critique of communitarian interpretations of the norms of state sovereignty and nonintervention in international society. More profoundly, changing our conception of the international/domestic distinction alters our perceptions of the line separating global injustice from mere personal misfortune.⁷

Consider the recent recognition of humanitarian interests and concerns as a justification for international or external military action against a sovereign state.⁸ Despite the introduction of 'crimes against humanity' into international law and morality at Nuremberg, for the next fifty years, even gross injustices committed by governments against their own citizens failed to awaken a sense of international injustice in the society of states. As Oliver Ramsbotham and Tom Woodhouse have observed, during the Cold War, the twin normative pillars of that society – sovereignty and nonintervention – served to enforce a rigid dichotomy between international and domestic spheres, and made humanitarian concerns almost unmentionable in official state-to-state relations. The typical state response to gross human rights violations 'was to do nothing. Not only were instances of forcible intervention rare, but even formal protest and the initiation of collective measures through recognized human rights procedures were seldom, and even then, only reluctantly invoked.'⁹ Michael Akehurst similarly has recorded that during the Cold War era, most states

⁵ Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2002), p. 169. According to John Rawls, 'The basic idea is that in virtue of their two moral powers (a capacity for a sense of justice and for a conception of the good) and the powers of reason (of judgment, though, and inference connected with these powers), persons are free. Their having these powers to the requisite minimum degree to be fully cooperating members of society makes persons equal'. See John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), § 1, pp. 18–19; and Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), § 77, pp. 504–12.

⁶ This follows Kant who argued that, 'The problem of solving a perfect civil constitution is subordinate to the problem of a law-governed external relationship with other states, and cannot be solved unless the latter is also solved'. See Kant, 'Idea for a University History with a Cosmopolitan Purpose' (1784) in *Political Writings*, trans. H. B. Nisbet, ed. Hans Reiss, 2nd edn. (New York: Cambridge University Press, 1991), p. 187.

⁷ For a stimulating discussion of the political nature of the distinction between injustice and misfortune, see Judith N. Shklar, *The Faces of Injustice* (New Haven, CT: Yale University Press, 1990).

⁸ For a thorough account of cases of humanitarian intervention during and after the Cold War, see Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2002). Wheeler offers a solidarist theory of legitimate humanitarian intervention.

⁹ Oliver Ramsbotham and Tom Woodhouse, *Humanitarian Intervention in Contemporary Conflict: A Reconceptualization* (Oxford: Blackwell, 1996), p. 56.

condemned 'humanitarian intervention' as illegal. Even states that intervened against a government responsible for mass atrocities chose to justify their interventions on non-humanitarian grounds.¹⁰ Being a victim of an oppressive, even genocidal, regime was a horrible misfortune, but not a recognised international injustice. A conventional justification for this neglect has been stated well by Michael Walzer, who defended the idea that, short of genocide and acts that shock the conscience of humanity, 'the citizens of a sovereign state have a right, insofar as they are to be coerced and ravaged at all, to suffer only at one another's hands'.¹¹

In contrast, Beitz has maintained that there is 'no difference in principle' between being oppressed by one's own leaders and by foreign rulers.¹² The rise of human rights doctrine 'as an acceptable justification for various kinds of international intervention, ranging from diplomatic and economic sanctions to military action, in the domestic affairs of states', indicates the ascendancy of a cosmopolitan view of global injustice that includes violations of common rights and duties owed to all human beings by virtue of their humanity, irrespective of whether these violations are committed by governments within or beyond the boundaries of a sovereign state.¹³

Empirically, a dichotomous conception of the international/domestic distinction has been hard to sustain as scholars and practitioners of international politics increasingly acknowledge the 'existing pattern of interstate influence and interpenetration'.¹⁴ The social reality of world politics is one that defies a rigid separation of international and domestic spheres. Conflicts that invite considerations of international military action as well as other kinds of measures more typically traverse this divide, resulting in what Ramsbotham and Woodhouse have called 'international-social conflicts', or 'communal conflicts which become crises of the state', and 'thereby automatically [involve] the wider society of states'.¹⁵ Beitz has similarly observed that, 'in a world characterized by high levels of political and economic interdependence, one wonders whether there can be any pure cases of domestic political change, untouched by significant external influences'.¹⁶

The mutual interplay of internal and external factors in intrastate violent conflicts ultimately demonstrates the limited utility of focusing on the question of *whether or not to intervene*. In his account of the 1994 Rwandan genocide, for example, Gérard Prunier points to the idea of a 'special relationship', based on language and culture,

¹⁰ Michael Akehurst, 'Humanitarian Intervention', in *Intervention in World Politics*, ed. Hedley Bull (Oxford: Clarendon Press, 1986), pp. 95–9. Akehurst notes, for example, that India initially justified its military intervention in Pakistan in 1971 on humanitarian grounds, but subsequently changed its explanation in the Official Records of the United Nations Security Council (p. 96).

¹¹ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 2000 [1977]), p. 86.

¹² Beitz, *PTIR*, p. 89 and p. 96. 'From the point of view of persons nonvoluntarily subject to a regime, and unable effectively to express or withhold their consent to it, it appears to make little moral difference whether the regime is imposed by other members of their own community or by foreign agents' (p. 119).

¹³ Charles R. Beitz, 'Human Rights as a Common Concern', *American Political Science Review*, 95:2 (June 2001), pp. 269–82, at 269.

¹⁴ Jan Nederveen Pieterse, 'Sociology of Humanitarian Intervention: Bosnia, Rwanda and Somalia Compared', *International Political Science Review*, 18:1 (1997), pp. 71–93, at 81.

¹⁵ Ramsbotham and Woodhouse, *Humanitarian Intervention in Contemporary Conflict*, p. 87.

¹⁶ Beitz, *PTIR*, p. 87.

that France had cultivated with its former African colonies and other francophone states. This meant that 'within the mutually-accepted Franco-African political culture, "it is not when the French government intervenes that he has some explaining to do, it is when it *doesn't*."' In the crucial months leading up to the genocide, France gave unquestioning support to the Habyarimana government, despite its poor record of human rights and treatment of Tutsi refugees. Prunier observes, 'This blind commitment was to have catastrophic consequences because, as the situation radicalised, the Rwandese leadership kept believing that *no matter what it did*, French support would always be forthcoming. And it had no valid reasons for believing otherwise.'¹⁷ Once we acknowledge the historical web of social entanglements between states, and recognise that domestic and international structures of norms, power and authority are mutually interconnected rather than mutually exclusive, the issue becomes not whether, but *how* to intervene or simply, how to act.

The effect of a transformation of the moral basis of sovereign rights and duties along cosmopolitan lines is perhaps more profound than even Beitz has been willing to acknowledge. He has been careful to distinguish between moral and political cosmopolitanism, arguing that a cosmopolitan moral perspective does not necessarily entail 'global institutions conceived on the analogy of the state'.¹⁸ In some ways, this move to distinguish cosmopolitan moral structures from political ones is a reassurance to those who posit a fundamental conflict between cosmopolitan morality and a world of sovereign states. Hedley Bull, for example, put it rather provocatively: 'Carried to its logical extreme, the doctrine of human rights and duties under international law is subversive of the whole principle that humankind should be organised as a society of sovereign states'.¹⁹ Beitz has recently argued that it 'is consistent with moral cosmopolitanism to hold that something like the state system is better than anything like a world government'.²⁰

While moral cosmopolitanism may not necessitate a global leviathan, it would still seem to require the development of numerous international institutions with the teeth of a global leviathan, that is, with significant enforcement powers. One example can be found in the application of laws on prohibited weapons in armed conflicts. States adopted the international humanitarian law of armed conflict in 1949 primarily to control state conduct in interstate wars, while leaving states a relatively free moral hand in controlling internal discord. The Geneva Conventions thus draw a sharp distinction between 'international armed conflicts' and other violent situations. Contemporary legal arguments, made in the context of international criminal tribunals, have directly challenged the moral coherence and sustainability of this posited distinction between international and internal armed conflicts. The International Criminal Tribunal for the former Yugoslavia, for example, stated that, 'elementary considerations of humanity and common sense make it preposterous that the use by States of weapons prohibited in armed conflicts between themselves

¹⁷ Gérard Prunier, *The Rwanda Crisis: History of a Genocide* (New York: Columbia University Press, 1997), pp. 99–108.

¹⁸ Beitz, *PTIR*, p. 182–3, and p. 199.

¹⁹ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 1977), p. 152.

²⁰ Beitz, 'International Liberalism and Distributive Justice', p. 187.

be allowed when States try to put down rebellion by their own nationals on their own territory'.²¹ Such judgements that accord with a cosmopolitan conception of international morality have been made possible and effectual only through the development of an international criminal tribunal with universal jurisdiction over various human rights violations.²²

Similarly, given the mixed record of humanitarian interventions in the 1990s, coupled with the recent US-led military interventions into Afghanistan and Iraq, partly justified by the intervenors on humanitarian grounds, the realisation of moral cosmopolitanism might require the development of globally authoritative procedures and institutions that can adjudicate whether or not a state's conduct has violated a threshold of cosmopolitan justice, and whether or not an intervention can claim legitimacy on humanitarian grounds.²³ If it is the case that only just states are entitled to nonintervention, but interference in the domestic affairs of unjust states could be justified when 'it would promote the development of a just domestic constitution within the state',²⁴ some global or international body must be granted the authority to make binding and enforceable judgements about the justice or injustice of a given regime's conduct. Beitz acknowledges that a more expansive human rights doctrine is more vulnerable to abuse by a hegemonic power, and concludes that such a concern should lead to the establishment of multilateral institutions such as 'a world human rights court'.²⁵ Such developments would not spell the demise of a society of states, but such a society would be substantially transformed from its current state. Thus, while Beitz is right to distinguish between 'moral cosmopolitanism', 'cosmopolitanism about institutions', and 'cosmopolitanism about loyalties', endorsing moral cosmopolitanism as the correct 'view about the basis on which institutions and practices should be justified or criticized', may require

²¹ Quoted in Kenneth W. Abbott, 'International Relations Theory, International Law, and the Regime Governing Atrocities in Internal Conflicts', *The American Journal of International Law*, 93 (1999), pp. 361–79, at 363, fn. 13.

²² Indeed, the recent establishment of the International Criminal Court, with jurisdiction over 'natural persons' above age 18, is an institutional outcome of one branch of cosmopolitan justice, in that it establishes *individual* accountability for various crimes against *humanity*, rather than state responsibility for crimes against states. Although its *ad hoc* predecessors, the International Criminal Tribunals for the former Yugoslavia and Rwanda (ICTY and ICTR) enjoyed 'primacy', the ICC's jurisdiction is limited by the concept of 'complementarity'. This means that the Court can only exercise jurisdiction when domestic courts fail to prosecute due to lack of will or incompetence. In reality, then, the ICC will simultaneously limit *and enhance* state rights and responsibilities. Still, ratifying the Rome Statute took time partly because in order to fulfil their responsibility arising from the notion of complementarity to prosecute suspects in their territorial jurisdiction, many states needed to 'bring their substantive [domestic systems of] criminal law into line, enacting the offences of genocide, crimes against humanity and war crimes as defined in the Statute and ensuring that their courts can exercise universal jurisdiction over these crimes'. See William A. Schabas, *An Introduction to the International Criminal Court* (Cambridge: Cambridge University Press, 2001), p. 19.

²³ For innovative discussions of the need for a jurying process to adjudicate humanitarian interventions, see Thomas Franck, 'Interpretation and Change in the Law of Humanitarian Intervention', in J. L. Holzgrefe and Robert O. Keohane (eds.), *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (Cambridge: Cambridge University Press, 2003), pp. 204–31; and Thomas Franck, 'Legality and Legitimacy in Humanitarian Intervention', in *Humanitarian Intervention*, Nomos 47 (New York: New York University Press, 2005 forthcoming).

²⁴ Beitz, *PTIR*, pp. 81–2.

²⁵ Beitz, 'Human Rights as a Common Concern', p. 280.

the moral cosmopolitan to promote in practice the development of institutional and affective cosmopolitanism as well.²⁶

Indeed, without such developments, the realisation of global distributive justice, the central focus of Beitz's cosmopolitan vision, has remained elusive. The facts of contemporary global inequities mock the notion of humanity as a common moral community of free and equal persons. As Thomas Pogge has observed, 'Our present global economic order produces a stable pattern of widespread malnutrition and starvation among the poor, with some 18 million persons dying each year from poverty-related causes, and there are likely to be feasible alternative regimes that would not produce similarly severe deprivations'.²⁷ To be born among the global poor is still largely considered a personal misfortune rather than a global injustice.

Contemporary activists and theorists of global justice have begun to consider another route to global redistribution that highlights a potential fault with a cosmopolitan liberal approach to global justice. The problem with cosmopolitan liberalism (and perhaps with liberalism in general) is that it ignores history, specifically, the history of global injustice perpetrated mainly by Europeans against non-Europeans through centuries of slavery and colonialism. The argument from reparative justice seeks a moral accounting of that history of injustice, that includes acknowledgement of the historical wrong, and material reparations for victims and their descendants who continue to suffer the negative legacies of historical injustice.

In a recent work, Janna Thompson understands reparative justice as conceptually distinct from retributive justice and distributive justice. While reparative 'justice concerns itself with what ought to be done in reparation for injustice, and the obligation of wrongdoers, or their descendants or successors, for making this repair', retributive justice concerns itself with 'the punishment of wrongdoers', and distributive justice with equity, or the question of 'how goods should be distributed among individuals or how members of a society should share its benefits and burdens'.²⁸ Beitz has briefly considered the role of rectificatory justice within a theory of global distributive justice, noting, 'In the nonideal world it may be especially difficult to distinguish between international and intergenerational distributive justice: because economic and social development extends over several generations, international action might be required either to rectify the injustices of past generations in wealthy societies or to satisfy the requirements of intergenerational justice in the present poor ones'.²⁹

Beitz's comment points to the possibility of taking historical claims into account through the notion of intergenerational distributive justice. It should also be noted that while Rawlsian liberal theory does not explicitly address the problem of historical injustice, it does provide a strong moral justification for repairing the negative legacies of historical injustice, since victims of social and political injustice are likely to constitute the worst-off groups.³⁰ I think it is right to conceive of reparative

²⁶ Beitz, *PTIR*, p. 199.

²⁷ Pogge, *World Poverty and Human Rights*, p. 176.

²⁸ Janna Thompson, *Taking Responsibility for the Past: Reparation and Historical Injustice* (Cambridge: Polity Press, 2002), p. xi.

²⁹ Beitz, 'International Liberalism and Distributive Justice', p. 294.

³⁰ On Rawls' account of social justice, inequalities in the distribution of social primary goods [mainly powers and opportunities, incomes and wealth] are justifiable 'when they maximize, or at least all contribute to, the long-term expectations of the least fortunate group in society'. See Rawls, *A Theory of Justice*, p. 151.

justice, not as an alternative but as a complement to a cosmopolitan liberal theory of global justice.³¹ This is because reparative claims for wrongs such as slavery and colonialism are unintelligible without a cosmopolitan liberal moral framework that conceives of humanity as a common moral community of free and equal persons. The implication of this connection between theories of reparative and distributive justice is that the fortunes of reparative justice claims may be intricately tied to the struggle for global distributive justice.

At the same time, theories of reparative justice face distinct challenges of their own. What price, for example, can be put on injuries suffered by victims of slavery? The problem with such injustices is their fundamental irreparability, and the inescapable arbitrariness of any proposed monetary compensation. In cases of historical injustice, there is also the problem of the passage of time, that leads to the puzzle of how contemporary descendants can owe or be owed reparations for wrongs done or suffered by their ancestors. Identity changes in persons, regimes and societies all complicate the process of assigning historical entitlements and obligations to contemporary individuals, institutions and collectives. In addition, proving the causal link between contemporary global inequalities and historical injustices requires the construction of controversial counterfactuals, a problem for theorists of reparative justice that rivals the problem of hypothetical social contracts for theorists of distributive justice.

Despite these philosophical challenges, the language of reparative justice is enjoying growing prominence in world politics. What can account for this? Beitz suggests an answer in his explanation for the popularity of the principle of self-determination in the era of decolonisation. Claims for independence, he argued in *PTIR*, could be viewed as remedies against the injustices of colonial rule; it was assumed that self-determination would reduce social injustice in the colonies. The rising popularity of reparations movements may express a similar logic. This is to say that reparative claims for historical injustice may be motivated ultimately by indignation about contemporary, rather than ancient, injustices.

Reflecting on histories of human injustice may lead one to criticize Beitz's cosmopolitan liberal vision as an *unrealistic* utopia. Beitz has engaged this criticism directly, arguing that 'any reasonable theory must be constrained by what is possible', and therefore, that cosmopolitans should seek 'incremental or reformist goals'.³² Ought implies can, but it should be noted that normative ideas about what ought to be done have a direct effect on how capabilities and resources are developed and distributed. The French doctors who founded *Médecins Sans Frontières* in the shadow of the Biafran war, for example, had to have the normative idea that access to medical care is a human right before they could embark on developing the appropriate institutional framework with the relevant capabilities. It is thus not the lack of resources that makes the eradication of global poverty, or the reduction of

³¹ For an excellent treatment of the relationship between reparative and distributive global justice, see Kok-chor Tan, 'Colonialism, Reparations and Global Injustice', in Jon Miller (ed.), *Reparations: An Interdisciplinary Examination of some Philosophical Issues* (Oxford: Oxford University Press, forthcoming). Tan asserts that 'reparative arguments can supplement arguments from equality; they may even be necessary if egalitarian justice is to be realized; and . . . they can substitute for egalitarian arguments when the latter are resisted.'

³² Beitz, 'International Liberalism and Distributive Justice', p. 290.

global inequalities, unrealistic. Similarly, it is not primarily or solely the lack of coercive capacity or the weakness of international institutions that has prevented concerted and sustained, proactive and reactive, international responses to state-sponsored human rights violations. Rather, these lacks and weaknesses in capabilities and resources are explained, to a significant degree, by the problem of limited moral vision that fails to recognise certain faces of injustice in international relations. In revealing and challenging our moral blindspots, the importance and continuing relevance of Charles Beitz's book is crystal clear.³³

³³ Are there any distinctly cosmopolitan injustices that are missed by cosmopolitan liberalism? If we remember that a *cosmopolite* in classical times was a 'citizen of the *universe*', it is possible that a comprehensive cosmopolitan moral theory would include an account of our moral obligations to all living things, including animals and the natural environment.