

All cosmopolitans hold at least this set of beliefs: (1) Human beings are *ultimate* units of moral concern. Families, tribes, nations, cultures, and so on can become units of concern only indirectly. (2) The status as an ultimate unit of moral concern extends to all human beings *equally*. (3) Human beings should be treated as ultimate units of concern *by everyone*.¹

Accepting these cosmopolitan premises, as I do, poses a challenge for anyone who believes that fundamentally different principles of distributive justice apply to the global order, on one hand, and to the main social and political institutions of the modern state, on the other. “This discrepancy in moral assessment,” Pogge avers, “looks arbitrary. Why should our moral duties, constraining what economic order we may impose upon one another, be so different in the two cases?”²

The aim of this article is to demonstrate that this discrepancy is not in fact arbitrary, and to do so without violating any of the cosmopolitan premises with which we began. More specifically, I will defend the idea that equality is a demand of justice³ only among citizens (and, indeed,

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1. These criteria are borrowed from Thomas Pogge, “Cosmopolitanism and Sovereignty,” *Ethics* 103 (1992): 48–75, at pp. 48–49.

2. Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity, 2002), p. 95.

3. By ‘equality is a demand of justice’ (and related terms, e.g., ‘egalitarianism’), I mean any conception of socioeconomic justice that aims to limit the range of permissible social

residents) of a state. This is not because states are directly coercive of individuals in a way that the international or global institutional order⁴ is not; the fact that states use force in defense of their laws is only of indirect relevance to a conception of egalitarian justice. Rather, I will argue that equality as a demand of justice is a requirement of *reciprocity* in the mutual provision of a central class of collective goods, namely those goods necessary for developing and acting on a plan of life. Because states (except in cases of occupied or failed states) provide these goods rather than the global order, we have special obligations of egalitarian justice to fellow citizens and residents, who together sustain the state, that we do not have with respect to noncitizens and nonresidents. This does not imply that we have *no* obligations of distributive justice at the global level, only that these are different in both form and content from those we have at the domestic.⁵

The article is organized as follows. In Section I, I draw two distinctions necessary for a proper understanding of the variety of positions possible within cosmopolitanism. In Section II, I discuss two recent attempts to bound, within a broadly cosmopolitan perspective, the scope of

inequalities among individuals. The term is intended to be neutral with respect to both the *distribuendum* (resources, capabilities, and so on) and the particular principle (priority, maximin, and so on). I return to this below.

4. By 'international' order, I mean those practices, institutions, and regimes that govern relations among states. Included are international institutions with less than global scope, such as the Council of Europe. By 'global' order, I mean both the institutions of the international order as well as transnational, transgovernmental, and supranational, formal and informal, networks and institutions that mediate relations among public and nonpublic agents beyond the state. Examples include the Basle Committee, NGOs, transnational regulatory networks, and so on. See Robert O. Keohane and Joseph S. Nye, *Transnational Relations and World Politics* (Cambridge, Mass.: Harvard University Press, 1972).

5. I will assume that all plausible criteria of distributive justice, whether national, international, or global, must at least require raising all human beings to a minimal threshold defined in terms of access to basic goods, including clothing, shelter, food, and sanitation. Although I cannot defend this stipulation in any detail here, all of the major forms of 'internationalism' (on which more below) accept it as a starting point. Though more urgent politically, such a humanitarian minimum is less controversial among philosophers (although there is a great variety of paths to the conclusion). The philosophically more difficult and controversial question is how to identify the level or domain to which we should assign *equality* as a demand of justice, and, more importantly, why. Nothing I will say below, for example, should be taken as contradicting Pogge's later thesis that our joint imposition of the current global order makes us negatively responsible for massive human rights violations. See, e.g., Thomas Pogge, "Severe Poverty as a Violation of Negative Duties," *Ethics & International Affairs* 19 (2005): 55–83.

equality to the state by appeal to its coercive power. The argument proceeds dialectically: seeing the ways in which coercion-based accounts fail suggests a way in which a reciprocity-based conception of equality might succeed. It is to the elaboration of such a conception that I turn in Section III.

I. TWO DISTINCTIONS

Within cosmopolitanism, we can distinguish between *relational* and *nonrelational* conceptions of distributive justice. Those who hold that principles of distributive justice have a relational basis hold that the practice-mediated relations in which individuals stand condition the content, scope, and justification of those principles. Relational accounts vary regarding both which relations condition the content, scope, and justification of those principles as well as how they do so. Some, for example, claim that social goods, such as health or leisure, acquire value and meaning from the culturally distinct practices through which they are distributed, and it is these culturally contingent values and meanings that give content to and bound the scope of distributive justice.⁶ Others claim that it is not cultural or social *meanings* that condition the content, scope, or justification of principles of justice, but the nature of shared social and political *institutions*. Social and political institutions fundamentally alter the relations in which individuals stand, and hence the principles of distributive justice that are appropriate to them.⁷ Despite such differences, all relational views share the idea that principles of distributive justice cannot be formulated or justified independently of the practices they are intended to regulate.⁸

6. See Michael Walzer, *Spheres of Justice* (New York: Basic Books, 1983); David Miller, *Citizenship and National Identity* (Cambridge: Polity Press, 2000).

7. See, e.g., Thomas Nagel, "The Problem of Global Justice," *Philosophy & Public Affairs* 33 (2005): 113–47, at pp. 119–22; Michael Blake, "Distributive Justice, State Coercion, and Autonomy," *Philosophy & Public Affairs* 30 (2001): 257–96, at pp. 261–66; Darrel Moellendorf, *Cosmopolitan Justice* (Boulder, Colo.: Westview Press, 2002), p. 30ff; Leif Wenar, "Contractualism and Global Economic Justice," in *Global Justice*, ed. Thomas Pogge (Oxford: Blackwell, 2001); Charles R. Beitz, *Political Theory and International Relations* (Princeton, N.J.: Princeton University Press, 1999).

8. Rawls writes, "The correct regulative principle for a thing depends on the nature of that thing" in *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1999), p. 25. See also *Political Liberalism* (New York: Columbia University Press, 1993), p. 262, and

Those who argue that principles of distributive justice have a *nonrelational* basis reject the idea that the content, scope, or justification of those principles depend on the practice-mediated relations in which individuals stand.⁹ This is not to say that social practices can play no role within a nonrelational view. The point is rather that they do not play any role in the *justification* and *formulation* of a given set of principles. They may, however, condition the way in which the principles are *applied*. Conceptions of distributive justice that are grounded on the basic intuition that no one should be worse off than anyone else through no fault of their own, whether or not they share in any practices or institutions, are nonrelational.¹⁰ But so are accounts which claim that Rawls's two principles of justice can be grounded directly in a conception of moral personhood, and hence independently of sharing in (cooperative or coercive) political and social schemes (e.g., a basic structure).¹¹

The distinction between nonrelational and relational conceptions partially cuts across the distinction between what I will call *internationalism* and *globalism*. According to *globalists*, equality as a demand of justice has global scope. *Internationalists*, by contrast, believe that equality as a demand of justice applies only among members of a state.

"Kantian Constructivism in Moral Theory," in *Collected Papers*, ed. Samuel Freeman, pp. 305–6. Rawls's frequent reference (after at least 1980) to the idea that basic conceptions of society and person must be drawn from the public political *culture* of a society suggests that he draws on *both* forms of relationism that I have identified (rather than simply what we might call the institutionalist variant listed in n. 7). The *Law of Peoples*, in particular, seems to rely much more explicitly on the idea that principles of justice must be constructed not only from an account of the institutionally mediated relations in which people stand but also from shared cultural beliefs and practices. I cannot explore this any further here.

9. The distinction between relational and nonrelational conceptions is different than Liam Murphy's distinction between 'monism' and 'dualism.' Relational conceptions are agnostic on the question of whether principles of distributive justice apply first and foremost to individual conduct (and to institutions only derivatively). Relational conceptions only say that for principles of distributive justice to apply at all, whether to individuals or to institutions, individuals must stand in an appropriate relationship. See Liam B. Murphy, "Institutions and the Demands of Justice," *Philosophy & Public Affairs* 27 (1998): 251–91, at pp. 274–75.

10. See, e.g., Larry Temkin, *Inequality* (New York: Oxford University Press, 1993), p. 13, and Richard Arneson, "Luck Egalitarianism and Prioritarianism," *Ethics* 110 (2000): 339–49, at p. 339 for the prioritarian version of the basic intuition.

11. We will consider this nonrelational form of the Rawlsian argument in more detail below.

This does not commit the internationalist to skepticism regarding the existence of other principles of distributive justice at the global level. He is only committed to the claim that these distributive obligations, whatever they are, are not derived from a conception of distributive equality with global scope.¹²

These distinctions allow us to see that there are two distinct ways of arriving at a globalist conclusion (though they are often conflated).¹³ First, we can begin with the familiar thought that we all participate in a global order with profound and pervasive effects on the life prospects of all human beings. Therefore, if principles of distributive equality apply domestically, they should apply, for the same reasons, globally as well. What makes this argument *relational* is the premise that it matters, for determining the content and scope of distributive equality, what the current extent and degree of interaction actually are.

One could, alternatively, take a nonrelational route to a globalist conclusion. Those who hold that principles of distributive equality have a nonrelational basis believe that the current extent or depth of international interdependence is irrelevant to the content, scope, or justification of those principles. For the nonrelational theorist, principles of distributive equality must therefore have global scope. Notice that while nonrelational conceptions of equality entail globalism, the reverse is not true. As we have just seen, it is possible to believe that principles of distributive equality have global scope but a relational basis.

The internationalist must therefore fight a battle on two fronts. On one front, he must show that, while it is true that equality as a demand of justice has a relational basis, our best understanding of this basis supports an *internationalist* rather than a globalist conclusion. The inference from facts about international interdependence to globalism is therefore false. On the second front, he must reject nonrelational conceptions of distributive egalitarianism as such. I will have much more to

12. Hence, internationalism is consistent with what Joshua Cohen and Charles Sabel label “weak statism” (“Extra Rempublicam Nulla Justicia,” *Philosophy & Public Affairs* 34 [2006]: 147–75).

13. Nagel, “Global Justice,” e.g., argues that the early Beitz and Pogge are (in his terms) “cosmopolitans,” and hence hold (in our terms) nonrelational conceptions of justice. Nagel does not explicitly recognize that the distinction between relational and nonrelational views partially cuts across the distinction between globalist and internationalist conceptions of justice. For this point, see also A. J. Julius, “Nagel’s Atlas,” *Philosophy & Public Affairs* 34 (2006): 176–92.

say in this article about how to go about defending the former claim, although I will also have something to say in the way of sustaining the latter as well.

Summarizing, we might say that the distinction between globalism and internationalism is a distinction in the *scope* of equality and the distinction between relational and nonrelational conceptions is a distinction in the *grounds* of justice.

II. COERCION-BASED INTERNATIONALISM

Coercion-based accounts of internationalism are relational, but they differ on how to draw the connection between state coercion and equality as a demand of justice. For Michael Blake, for example, it is the autonomy-restricting character of state that demands special justification in terms of a conception of social equality. For Thomas Nagel, it is our joint authorship of coercively backed laws that generates a concern for equality. Despite such differences, all coercion-based accounts agree that state coercion is a necessary condition for equality as a demand of justice to apply. I will first argue that this premise is false. If this is correct, then the desired connection between coercion and equality fails to hold, and coercion-based accounts never get off the ground. I then claim that Nagel's coercion-based account can, with a minor revision, avoid this criticism, but this revision comes at a price.

A. Coercion and Autonomy

Any argument for internationalism must contain at least two premises. The first is empirical. There must be some set of facts regarding domestic institutional schemes that distinguishes them from inter-, trans-, and supranational ones. The second is normative. There must be some normative set of reasons why those facts have special relevance for elaborating a conception of distributive equality.

Blake's empirical premise is that states use coercion in enforcing their directives in ways that trans-, inter-, and supranational orders do not. Coercion occurs when an agent X commands an agent Y to do Z on pain of sanctions sufficient to cause Y to comply.¹⁴ Stated in this way, the

14. This definition is rough, but no more precise definition is needed or given by Blake.

empirical premise may seem straightforwardly false. Many international practices and institutions, after all, *are* coercive. Take, for example, the dispute resolution procedure of the WTO: the threat of countermeasures forces the party in violation of the treaty establishing the GATT / WTO to amend its national laws, on pain of losing significant market access. Blake qualifies:

This is not to say that coercion does not exist in forms other than state coercion. Indeed, international practices can be coercive. . . . What I do say, however, is that only the relationship of common citizenship is a relationship potentially justifiable through a concern for equality in distributive shares.¹⁵

As Blake goes on to explain, it is not simply the *fact* of coercion that marks the boundary between domestic and international society. It is also the *domain* over which such coercion is exercised. State legal systems—as distinct from inter-, supra-, and transnational legal orders—not only (a) levy taxes on individuals and (b) define how individuals may hold, transfer, and enjoy their property, but also (c) threaten various negative consequences in the event of noncompliance with the legal norms regulating both (a) and (b), namely the system of taxation and the system of private law. It is true that supra-, trans-, and international orders sometimes authorize coercion. But it is only states that coerce *in the domain of private law and taxation and with respect to individuals*.

Blake's normative premise is that coercion, even if it is all-things-considered justified, is *prima facie* objectionable because it invades autonomy. Autonomy is understood as self-rule, living a life in accordance with aims and plans that one has set oneself and that one endorses on reflection. Coercion violates autonomy, Blake argues, not by restricting the number of options available but by subordinating the will to the will of others. To rebut the presumption that coercion is unjustified for this reason, coercive acts and practices therefore demand a special justification. One way to meet this justificatory burden would be to show that the coercive practice or act in question could elicit the consent of the affected parties if they were fully reasonable. If the coercive act or practice could meet with the hypothetical consent of the coerced, it would be,

15. Blake, "Distributive Justice," at p. 265.

though still autonomy infringing, all-things-considered justified. Therefore, for the exercise of coercive power *in the domain of private law and taxation* to be justified, we must be able to hypothetically consent specifically *to the pattern of entitlements* that results from its application. It follows that this pattern of entitlements cannot be justified unless (inter alia) those most disadvantaged by it could hypothetically consent to it. Blake further claims that the worst off could reasonably reject any departure from equality that does not make them better off.¹⁶ Because the international system does not establish such a system of coercive private law and taxation, it does not need to be justified in the same terms. A concern for egalitarian justice, Blake concludes, is therefore only relevant nationally.

B. Coercion and Authority

In this section, I argue that, contrary to Blake, coercion is not a necessary condition for equality as a demand of justice to apply. Imagine an internally just state. Let us now suppose that all local means of law enforcement—police, army, and any potential replacements—are temporarily disarmed and disabled by a terrorist attack. Suppose further that this condition continues for several years. Crime rates increase, compliance with the laws decreases, but society does not dissolve at a stroke into a war of all against all. Citizens generally feel a sense of solidarity in the wake of the attack, and a desire to maintain public order and decency despite the private advantages they could gain through disobedience and noncompliance; this sense of solidarity is common knowledge and sufficient to provide assurance that people will (generally) continue to comply with the law. The laws still earn most people's respect: the state continues to provide the services it always has; the legislature meets

16. Blake, "Distributive Justice," at pp. 282–83. The move from hypothetical consent to the difference principle may seem too quick. Blake refers to Rawls's argument from the original position to support this inference, but why make the further claim? The best way to read Blake, I believe, is that he has established that worst-off *subjects of a state* are owed a special justification for the pattern of entitlements facing them that worst-off *subjects of the global institutional order* are not. His reference to Rawls's original position would then represent an example of how to move from hypothetical consent to a form of strong egalitarianism, but would not commit him to that conclusion. A similar strategy is pursued below.

regularly; laws are debated and passed; contracts and wills drawn up; property transferred in accordance with law; disputes settled through legal arbitration, and so on.

Does the legal system no longer require the same kind of justification to those most disadvantaged by it simply because it now lacks coercive power? It might be thought that this is not as implausible as it might at first sound. The legal system no longer coerces us, so it no longer infringes our autonomy by this route. And, precisely because the legal system no longer coerces us, following the logic of Blake's argument, it need not satisfy the same principles of distributive equality it did when it was still coercive. Now suppose that a rich group of gentlemen in our hypothetical society, impressed by Blake's argument, claims that norms of egalitarian justice no longer apply to them. They feel that the current tax regime, which is heavily progressive, is therefore unjustified, and they begin trying to unravel it through various forms of (lawful) political action. They feel obliged to obey the law (out of a sense of fair play and solidarity), hence their *lawful* attempts at reform. What they contest, citing Blake, are the criteria of justice that are relevant in assessing it. Yet this seems arbitrary. The state continues to do all the things it did before the attack (except coerce those subject to it): contracts are drawn up; taxes are paid; benefits collected, and so on. Why should the principles of distributive justice we use to evaluate the political system be any different?

In defending themselves against this objection, our rich gentlemen might try an amendment to Blake's argument. Instead of emphasizing the connection between coercion and the more demanding notion of autonomy, they might emphasize the connection between coercion and the will. Digging in their heels, they will say that the legal system after the attack is now *voluntary*. Their point, once again, is not that people can rightfully disobey the law: the gentlemen agree that people continue to have obligations of solidarity and fair play to obey the law. What they mean is that membership in the legal system after the terrorist attack is now just like (voluntary) membership in a secondary association, such as a church or a university. It is uncontroversial, they argue, that churches and universities need not order their internal affairs according to principles of distributive equality. But if that is true, why should we insist that the postattack regime do so?

The problem is that the attempt to reformulate Blake's argument rests on an ambiguous sense of 'voluntary.' If by voluntary, the gentlemen

objectors simply mean an intentional choice which is not coerced, then the conclusion follows. But that cannot be the sense of 'voluntary' that is required to draw the desired distinction between the less stringent set of norms that apply to voluntary associations on one hand and the more stringent set that applies to nonvoluntary ones on the other. The reason is that coercion is not necessary (although it is sufficient) to make membership in an association nonvoluntary *in the relevant sense*. What makes norms for the internal governance of secondary associations less stringent is that those subject to them have viable alternatives to membership which are not excessively burdensome.¹⁷ If they dislike the rules of a particular association, there are always other associations they could choose instead, or none at all. Although it might be psychologically, financially, and personally burdensome for them to leave the association in question, this would not hinder their access to any of the basic goods and services necessary for developing and acting on a plan of life, and so membership, we say, remains voluntary in the relevant sense.

If this is correct, however, then the legal system after the terrorist attack *is* nonvoluntary in the relevant sense (although it is no longer coercive). For all but the most well off, attempting to secede from or opt out of the legal system *would* be excessively burdensome; in leaving the association, they would lose access to those basic goods and services required to develop and act on a plan of life. It is as if they had been born on a ship at sea, but where the captain has lost the means to coerce those on board. The postattack state is therefore not at all like a voluntary association. Indeed, we can go further: the only reason that secondary associations *within* states are considered voluntary is precisely the existence of the background system of entitlements and protections provided by the state. To see the point, imagine membership in the state church became necessary for access to the basic goods and services necessary for developing and acting on a plan of life. In that case, we would say that membership in the state church had ceased to be voluntary, since individuals had no viable alternatives to membership, and hence that more stringent norms should apply to it.¹⁸ Subjection to the postattack state is

17. On this point, see Rawls, *Theory*, p. 302; Thomas Nagel, *Equality and Partiality* (New York: Oxford University Press, 1991), p. 36.

18. See the excellent discussion in Serena Olsaretti, *Liberty, Desert and the Market* (Cambridge: Cambridge University Press, 2004), chap. 6.

therefore nonvoluntary *but not autonomy infringing*; indeed, membership is autonomy *preserving*, providing the background conditions in which, for example, membership in secondary associations can rightly be esteemed voluntary at all.

The failure of the gentlemen's rebuttal suggests an amendment to Blake's argument. Blake could drop his focus on coercion and could appeal instead to the nonvoluntary character of the postattack legal system. With this amendment, the terrorist example would lose its bite, since the postattack system of norms still remains effective. The amendment, however, comes at a price.

C. Recasting the Argument

Recasting the coercion-based argument, we can say that it is the nonvoluntary, de facto *authority* of a legal system that requires a special justification in terms of a conception of socioeconomic equality rather than, more narrowly, its capacity to coerce. I will say that a political system has de facto authority when it claims a right to impose duties, confer rights, issue directives, and demand compliance with them, and most of those subject to it comply for reasons other than a fear of legally authorized sanctions.¹⁹ Incorporating the amendment, the main premises of the argument would now look like this:

- (1) Subjection to state law is nonvoluntary, whereas subjection to nonstate norms and regulations is not.
- (2) The state's exercise of de facto legal authority therefore requires special justification to those subject to it, whereas the exercise of norm-making authority by inter-, supra-, and transnational institutions does not.

The revised argument has two main advantages. First, it does not rely on the narrowly coercive aspect of legal norms, and hence avoids our initial critique. Second, it does not require controversial premises regarding whether inter-, trans-, and supranational orders regulate property, and hence the 'pattern of entitlements' facing individuals.²⁰ For this strategy

19. For this distinction, I follow Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), pp. 25–27.

20. Inter-, trans-, and supranational institutions have a crucial impact on the property regime governing the distribution of benefits and burdens in any modern economy, and

to be successful, however, there is a difficulty that has yet to be confronted. Notice that the argument no longer rests on the connection between coercion and autonomy. The argument, that is, now lacks a central rationale. As we have seen, the mere exercise of political authority does not necessarily violate our autonomy in the way coercion does; in fact, in many cases, it is necessary to preserve it.²¹ What is missing is some account of how the relations in which we stand as subjects of a nonvoluntary, authoritative system of legal norms is normatively relevant in conditioning the content, scope, and justification of a conception of distributive justice.

D. Authorship and Nonvoluntariness

In “The Problem of Global Justice,” Nagel provides just such an account. I will argue that it brings us closer to a plausible internationalism, but that it is also ultimately unsuccessful. Nagel’s argument is complex, so it is worth quoting him at length. Equality as a demand of justice

comes from a special involvement of agency or the will that is inseparable from membership in a political society. Not the will to become or remain a member, for most people have no choice in that regard, but the engagement of the will . . . in the dual role each member plays both as one of the society’s subjects and as one of those in whose name its authority is exercised. One might even say that we are all participants in the general will.

hence the holdings and transfers available to citizens, so it would be implausible to argue, once we no longer employ coercion as a premise, that only states exercise authority over property entitlements. Here are some examples: The TRIPS agreement sets justiciable standards for intellectual property rights, which protect inter alia patents and copyrights (e.g., to HIV-retroviral drugs, preventing the distribution of generics); international law confers legal rights to the appropriation and sale of natural resources as well as the right to borrow internationally; international antitrust law regulates cross-border mergers and acquisitions; IMF conditionality agreements fundamentally shape domestic social and economic policy. Although such norms and regulations are not backed by centralized sanctions, compliance with them is generally (and perhaps surprisingly) high. See the useful survey in Beth Simmons, “Compliance with International Agreements,” *Annual Review of Political Science* 1 (1998): 75–93.

21. On the compatibility between political authority and autonomy, see Joseph Raz, “Government by Consent,” in *Ethics in the Public Domain* (Oxford: Oxford University Press, 1995), pp. 357–69.

A sovereign state is not just a cooperative enterprise for mutual advantage. The societal rules determining its basic structure are coercively imposed: it is not a voluntary association. I submit that it is this complex fact—that we are both putative joint authors of the coercively imposed system, and subject to its norms, i.e., expected to accept their authority even when the collective decision diverges from our personal preferences—that creates the special presumption against arbitrary inequalities in our treatment by the system.

Without being given a choice, we are assigned a role in the collective life of a particular society. The society makes us responsible for its acts, which are taken in our name and on which, in a democracy, we may even have some influence; and it holds us responsible for obeying its laws and conforming to its norms, thereby supporting the institutions through which advantages and disadvantages are created and distributed. Insofar as those institutions admit arbitrary inequalities, we are, even though the responsibility has been simply handed to us, responsible for them, and we therefore have standing to ask why we should accept them.²²

The argument (a) claims to give us an account explaining why the relations in which we stand as subjects of a nonvoluntary, authoritative system of legal norms generate a special presumption against arbitrary inequalities and (b) does not depend on the controversial premise that property laws and entitlements are only regulated by domestic law.

There are a number of ambiguities in the argument that need to be resolved before we can properly assess it. First, although Nagel often speaks of coercion, notice that the argument does not require the coercive imposition of ‘societal rules.’ All that is required is that the system of societal rules be *nonvoluntary* for those subject to it. To put it another way: all that is required is the *imposition* of the societal rules; whether or not the societal rules are *coercively* imposed is, for the argument’s success, beside the point. This is good news for Nagel’s account, since it can then escape the critique we leveled at Blake’s view.

Second, democracy is not necessary for us to be ‘authors’ in Nagel’s sense. Of a colonial power ‘imposed from outside.’ Nagel writes,

22. Nagel, “Global Justice,” at p. 128–29.

It purports not to rule by force alone. It is providing and enforcing a system of law that those subject to it are expected to uphold as participants, and which is intended to serve their interests even if they are not its legislators. Since their normative engagement is required, there is a sense in which it is being imposed in their name.²³

Third, and closely related, when Nagel says that the state ‘claims’ to speak in our name and ‘holds’ us responsible and therefore owes us a special justification, I take it that he does not mean that offering a special justification is contingent on the ‘state’ (or for that matter any of its officials) taking a certain kind of attitude toward us. In other words, I take it that the state (or any of its public officials) cannot suspend the requirement to offer a special justification simply by not intending to speak in our name or not intending to hold us responsible. Speaking of the state’s ‘claim’ to speak in our name and so on is simply shorthand for saying that the state is a norm-generative system of societal rules which expects our compliance with it.²⁴ This reinforces Nagel’s point that equality as a demand of justice also applies to nondemocracies, colonial powers, and so on, since they all have legal systems that expect compliance of their subjects.

Once we interpret Nagel’s argument in this way, it becomes clear that it is a necessary and sufficient condition for our being authors of a norm-generative system of societal rules that we actively comply with it (by, for example, paying taxes, writing wills in an appropriately designated way, and so on). That is, indeed, the upshot of Hobbes’s own account of authorization in *Leviathan*.²⁵ When put in this way, it also becomes clear that Nagel’s authorship conditions are at best necessary but not sufficient for equality as a demand of justice to apply. As an illustration of this point, consider that we are also the ‘authors’ of the rules and norms

23. Nagel, “Global Justice,” at p. 129n.

24. I am indebted to Julius, “Nagel’s Atlas” for the distinction between triggering a demand for special justification because one takes a certain moral attitude towards one’s imposition of terms as opposed to merely imposing terms regardless of one’s attitude.

25. See, e.g., “Review and Conclusion” and the end of chapter 21 of Thomas Hobbes, *Leviathan*, ed. R. Tuck (Cambridge: Cambridge University Press, 1996). In both cases, Hobbes makes it clear that active compliance (even if it is coerced or ‘nonvoluntary’ in our terms but not Hobbes’s) is a necessary and sufficient condition of both authorship and legitimacy. Nagel agrees with the first claim, namely that we are authors if and only if we actively comply, but disagrees with the second, namely that such compliance is sufficient for legitimacy.

governing the local tennis club, yet Nagel would agree that equality of opportunity, rights to participation, and so on among tennis club members *qua* tennis club members is not a requirement of justice. The reason, of course, is that the tennis club is a voluntary association. At most, Nagel's authorship conditions therefore exclude nonrelational views that do not require *any* practice-mediated relations among individuals for justice to apply. They do not yet establish, however, either that egalitarian justice applies only among citizens of a state or the much stronger conclusion (which Nagel also endorses) that *no* norms of distributive justice beyond the humanitarian minimum (but short of full equality) apply to nonstate institutional orders.²⁶

For our purposes, the success of Nagel's argument therefore hinges entirely on the idea that subjection to trans-, supra-, and international institutional orders and norms is voluntary, whereas subjection to state orders and norms is not (Premise 1 above). The notion of authorship, the reference to the 'general will,' and so on, contribute, surprisingly, little to the overall success of the argument. It is therefore odd that Nagel gives no explanation for why the voluntary/nonvoluntary distinction holds such importance for a proper understanding of socioeconomic justice. Nagel, of course, makes much of the idea that the state 'speaks in our name' and 'holds us responsible,' but, as we have seen, so do tennis clubs. It seems to me that the best way to construe the intuitive plausibility of Nagel's use of the voluntary/nonvoluntary distinction is by using the analysis we deployed in our discussion of Blake.

According to that analysis, the argument would look like this. (1) Our subjection to nonstate institutional orders is voluntary, whereas our subjection to state laws is not. (2) Voluntary associations, like tennis clubs, need not meet the same stringent standards as nonvoluntary ones. Why? Say that you feel disadvantaged by a set of norms and regulations set by a voluntary association, and you demand a justification. Because you have an eligible option to leave the association, we say that the standards for justifying the rules need not be as stringent as a nonvoluntary association. When you have viable options that are not excessively burdensome, 'love it or leave it' is a reasonable reply. If a nonvoluntary organization imposes a disadvantage on you, things look very different. Because you have no viable alternative to compliance, the disadvantage must receive a special

26. For the second claim, see Cohen and Sabel, "Extra Rempublicam Nulla Justitia?"

and more stringent justification, precisely given your lack of alternatives. Therefore, when the state, through the legal order, imposes duties, confers rights, issues directives, and demands compliance with them, it must give each of us a special reason to accept its laws strong enough to rebut any objection we might have to them. The justification, in turn, must show that the law could reasonably be seen as acceptable from within each person's individual point of view, although no one consents to it. Nagel believes that only laws that treat all equally—that secure conditions of equal respect, opportunity, and concern—can be justified in this way.²⁷ Hence the internationalist conclusion that equality is a constraint of justice on state law, but not a constraint on the norms and regulations issued by and constitutive of nonstate orders.

Seen in this light, it is not surprising that Nagel's argument has received the most attention where it seems weakest, namely the idea that state involvement in trans-, supra-, and international institutional orders is in fact voluntary in the relevant sense. Referring to the idea that such involvement is voluntary, Cohen and Sabel write,

But this point seems almost facetious. Opting out is not a real option (the WTO is a "take it or leave it" arrangement, without even the formal option of picking and choosing the parts to comply with), and given that it is not, and that everyone knows it is not, there is a direct rule-making relationship between the global bodies and the citizens of different states.²⁸

This is a powerful line of argument, and I believe that my analysis of the voluntary/nonvoluntary distinction strengthens it: noncompliance or exit from most major international organizations, let alone the global institutional order as a whole, carries significant costs for states subject to them, especially smaller and less powerful ones. It stretches credibility to argue that these costs are small enough to make membership voluntary in the relevant sense, and hence to suspend a concern with distributive justice. Belonging to the WTO, UN, IMF, EU, and so on, is not like belonging to the local tennis club. This is especially clear once coercion is replaced by nonvoluntariness to explain why state-based 'societal rules' must receive a special justification. Once put in terms of voluntariness, we see that, at most, the voluntary/nonvoluntary distinction establishes

27. For this argument, see Nagel, *Equality and Partiality*, esp. chap. 4, 7, and 10.

28. "Extra Republicam," p. 161.

a *continuum* positively related to the stringency of the norms which apply to it: the more significant the costs of exit, the more stringent the justice norms which should apply. Yet, assuming for the moment such a continuum could be constructed in an attractive and tractable way, it would not in any case be available to Nagel, who believes that, as Cohen and Sabel put it, *extra rempublicam nulla justitia*.²⁹

E. Beyond Voluntarism

The conclusion I want to draw from our discussion is this. It seems to me a mistake to try to ground internationalism in how state and nonstate norms and regulations interact with the will. Absent a more compelling account of how degrees of voluntariness can be mapped onto a spectrum of distributive obligations of varying strength, the ‘voluntarist’ turn in the global justice debates is a dead end. Although Nagel’s authorship conditions are a useful way of conceiving of our relationship to the state, the binary distinction between voluntary and nonvoluntary submission is not. A better kind of internationalism would abandon the concern with voluntarism and focus on *what* the state does—on the object of our authorization—rather than *how* it engages, constrains, or thwarts the will. It is to such a conception that we turn in the next section.

III. RECIPROCITY-BASED INTERNATIONALISM

What is worth preserving in coercion-based internationalism? I agree that shared participation in the authorship and reproduction of the state puts us in a special relation that we do not have with those outside its borders. I also agree that coercion, private law, and taxation are important factors in explaining why obligations of egalitarian justice are bounded to the state. The connection to equality as a demand of justice, however, needs to be understood in a different way. In the following, I will argue that equality is a relational ideal of *reciprocity* among those who support and maintain the state’s capacity to provide the basic collective goods necessary to protect us from physical attack and to

29. Cf. also Nagel’s skepticism regarding the possibility of constructing ‘continuous’ theories of distributive justice, which vary in content with the character of the inter-, supra-, and transnational relations in which people stand, in “Global Justice,” pp. 140–43.

maintain and reproduce a stable system of property rights and entitlements. We owe obligations of egalitarian reciprocity to fellow citizens and residents in the state, who provide us with the basic conditions and guarantees necessary to develop and act on a plan of life, but not to noncitizens, who do not. For reciprocity-based internationalism (RBI), state coercion *is* relevant to the construction of a conception of egalitarian justice, not because it *violates* autonomy but because it is a useful (and, as we saw above, only contingently necessary) way to *preserve* it. Once seen in this light, coercion—and the impact of coercion on the will—is therefore of only contingent, indirect, and instrumental concern to a theory of distributive equality.

A. States, Collective Goods, and the Global Order

Any plausible internationalism, as I have said, must contain at least two premises: an empirical one distinguishing domestic from trans-, supra-, and international orders, and a normative one explaining why those facts are relevant to a conception of distributive justice. In this section, I discuss the empirical premise underpinning RBI.

Consider the basic extractive, regulative, and distributive capacities central to any modern state. When well-functioning, these basic state capacities, backed by a system of courts, administration, police, and military, free us from the need to protect ourselves continuously from physical attack, guarantee access to a legally regulated market, and establish and stabilize a system of property rights and entitlements. Consider further that state capacity in each of these areas is not manna from heaven. It requires a financial and sociological basis to function effectively, indeed even to exist. Yet, the global order, in all cases but those of failed and occupied states, does not provide this basis. Although the global order secures the recognition of the state as a legal person in international law and in some cases also provides an external source of finance (e.g., through IMF loans), citizens and residents, in all but the most extreme cases, provide the financial and sociological support required to sustain the state. It is they who constitute and maintain the state through taxation, through participation in various forms of political activity, and through simple compliance, which includes the full range of our everyday, legally regulated activity. Without their contributions to the *de facto* authority of the state—contributions paid in the

coin of compliance, trust, resources, and participation—we would lack the individual capabilities to function as citizens, producers, and biological beings.

There are at least two key ways in which the global order is distinct. First, while of course the global order is also sustained by our compliance, trust, resources, and participation, the range of areas over which it has authority, even in the most comprehensive inter-, trans-, and supra-national institutions such as the European Union, is comparatively narrow.³⁰ Second, while some international regimes claim to represent individuals independently of states, as in some human rights regimes, the global order presupposes the existence of states. Without states, the global order would lose the capacity to govern and regulate those delegated areas within its jurisdiction. This is only in part because the global order lacks an autonomous means of coercion. More fundamentally, the global order does not have the financial, legal, administrative, or sociological means to provide and guarantee the goods and services necessary to sustain and reproduce a stable market and legal system, indeed to sustain (on its own) any kind of society at all. In this connection, one might think of the plight of failed or weak states. There is by now a well-established literature showing that global institutional reform is unlikely to succeed without ‘strong states,’ Institutional capacity at a domestic level is a widely recognized variable in explaining which states are likely to benefit from global integration and which are less likely.³¹

30. Consider, for example, that the EU civil service is the size of a medium-sized European city; that its budget is capped at 1.23 percent of EU GDP compared with about 40 to 50 percent in each of the member states; it possesses no independent police force or army; and its competences are circumscribed, and, when compared to the modern state, quite limited (although expansive when compared to other inter-, supra-, and transnational institutions). See, e.g., Andrew Moravcsik, “In Defense of the ‘Democratic Deficit’: Reassessing Legitimacy in the European Union,” *Journal of Common Market Studies* 40 (2002): 603–24; Giandomenico Majone, “Delegation of Regulatory Powers in a Mixed Polity,” *European Law Journal* 8 (2002): 319–39; René Dehousse, “European Institutional Architecture after Amsterdam: Parliamentary System or Regulatory Structure?” *Common Market Law Review* 35 (1998): 595–627. Even with respect to its evolving body of social law, the European Union is limited to mainly regulatory functions (e.g., occupational health and safety) rather than direct provision. See *EU Law and the Welfare State: In Search of Solidarity*, ed. Graíne De Búrca (Oxford: Oxford University Press, 2005); *Social Law and Policy in an Evolving EU*, ed. Jo Shaw (Oxford: Hart, 2000).

31. Peter Evans, “The Eclipse of the State? Reflections on Stateness in an Era of Globalization,” *World Politics* 50 (1997): 62–87; Dani Rodrik et al. (2002), “Institutions Rule: The Primacy of Institutions over Geography and Integration in Economic Development,” CID

While it is true that the global order and, more plausibly, less extensive regional orders such as the European Union *could* acquire autonomous distributive, extractive, and regulative capacities, RBI says that, until they do so, equality as a demand of justice does not apply to them.

B. Egalitarian Reciprocity

Of what relevance are these facts about states to a conception of distributive justice? In this section, I explain how reciprocity in the mutual provision of the basic collective goods necessary for acting on a plan of life conditions the content, scope, and justification of distributive equality.

So far we have made very inclusive use of the term ‘egalitarian justice’ and its derivatives, using it to refer to any view that seeks to limit the range of permissible social inequalities among individuals, whatever the distributive principles or operative *distribuendum*. In the discussion to follow, I draw a narrower set from this wider field, namely the set defined by those conceptions of egalitarianism that share the premise that social and natural contingencies are arbitrary from a moral point of view, by which I mean that, as Rawls writes, we should strive “to mitigate the [unequal] influence of social contingencies and natural fortune on distributive shares.”³² There are two reasons such a restriction is useful. First, the argument from moral arbitrariness has often been thought to clear a direct route to globalism. Showing how we can block the move from moral arbitrariness to globalism will aid us in answering the most common argument on behalf of the latter. Second, the argument from moral arbitrariness is arguably one of the most powerful supporting premises in predominant forms of egalitarianism, including Rawls’s

Working Paper, no. 97, (Cambridge, Mass.: Harvard University); Linda Weiss, *The Myth of the Powerless State* (Ithaca, N.Y.: Cornell University Press, 1998).

32. Rawls, *Theory*, p. 73. Egalitarian theories which include the argument from moral arbitrariness as a premise include inter alia Ronald Dworkin, *Sovereign Virtue* (Cambridge, Mass.: Harvard University Press, 2000); G. A. Cohen, “On the Currency of Egalitarian Justice,” *Ethics* 99 (1989): 906–44; Philippe Van Parijs, *Real Freedom for All: What (If Anything) Can Justify Capitalism?* (Oxford: Oxford University Press, 1995); Nagel, *Equality and Partiality*; Richard Arneson, “Equality and Equal Opportunity for Welfare,” *Philosophical Studies* 56 (1989): 77–93. Below I demonstrate how Rawls’s *justice as fairness* can be given an interpretation in terms of RBI.

justice as fairness and Dworkin's *equality of resources*.³³ Showing how the argument from moral arbitrariness can be grounded in the idea of state-based reciprocity will therefore support the idea that this form of egalitarianism is best understood as an *internationalist* rather than a *globalist* ideal. Yet it is important to note that, in presenting the case for RBI in terms of this narrower set of egalitarian theories, I do not mean to imply that RBI could not be developed for other (potentially weaker) forms of egalitarianism. Although I do not do so here, one could work out a reciprocity-based conception of internationalism from the notion that distributive norms capture the fair return owed to those who aid in maintaining and reproducing the state without appeal to the argument from moral arbitrariness, and hence without committing oneself to the stronger egalitarianism of, for example, a Rawlsian or Dworkinian kind.³⁴

The key question for our discussion is what place to assign the argument from moral arbitrariness in a theory of egalitarian justice. The contrast I will draw is between theories which hold that the argument from moral arbitrariness generates obligations of distributive equality independently of the relations in which we stand, and those, like RBI, which hold that such obligations emerge only in the presence of normatively relevant relationships among individuals (in our case our relationship as participants in the state).³⁵ To draw this contrast, I will canvass two different responses to an objector who argues that reciprocity requires that citizens and residents receive, at most, a return proportional to their individual contribution as defined by the marginal product of their labor, but not any kind of egalitarian justice.³⁶ Our

33. There is a recent debate regarding how important the argument from moral arbitrariness is within *justice as fairness*. See, e.g., Samuel Scheffler, "What Is Egalitarianism?" *Philosophy & Public Affairs* 31 (2003): 5–39; Norman Daniels, "Democratic Equality: Rawls's Complex Egalitarianism," in *The Cambridge Companion to Rawls*, ed. N. Daniels (Cambridge: Cambridge University Press, 2003). I believe that the interpretation of Rawls's argument that I will present below is compatible both with those who think it plays a central role in Rawls's theory and with those who believe it does not. No one, after all, disputes that it is *a* premise in the Rawlsian construction.

34. E.g., Elizabeth S. Anderson, "What Is the Point of Equality?" *Ethics* 109 (1999): 287–337.

35. I am indebted to Mathias Risse and Michael Blake (2004), "Two Models of Equality and Responsibility," KSG Working Paper Series, no. RWP04-032, (Cambridge, Mass.: Harvard University) for this way of putting the distinction.

36. Cf. Rawls's own discussion of this example in Rawls, *Theory*, pp. 267–72.

well-off individual claims that her marginal product represents her individual contribution, for which she is entitled to the fair return represented by her full market wage.

One way to respond would be to insist that the natural and social contingencies that have allowed her to prosper are the product of sheer brute luck, aspects of her circumstances that are neither deserved nor the result of any choices she has made. Much of the benefit derived from her contributions is, from this point of view, morally arbitrary. When asked to consider someone less talented, or with fewer social advantages, she should think, 'there but for the grace of god go I,' and be moved to compensate them for their unchosen and undeserved misfortune. The underlying motivation is the idea that the unequal effects of bad brute luck should be mitigated or eliminated. This is a popular interpretation of Rawls's argument from the moral arbitrariness of natural and social circumstances.³⁷ Notice that this interpretation of the argument from moral arbitrariness is nonrelational. On this view, there is an enforceable natural duty to help those who are worse off than others through no fault of their own whether or not we share in any social or political order. The fact that we can identify a choice-independent inequality in holdings is sufficient to create a *prima facie*, perfectly general demand for redistribution. Brute luck pays no heed, after all, to whether people's relations are institutionally mediated.

It is instructive to consider one of the most common globalist arguments with a Rawlsian pedigree in this light. If social and natural circumstances that are the product of brute luck are morally arbitrary, the conclusion that our place of birth is just as morally arbitrary as our talents or social circumstances seems patent.³⁸ The scope of distributive equality, the argument concludes, should therefore be global. To draw some implications of this nonrelational globalist view, consider this familiar example. Suppose we, the unfortunate inhabitants of a country A, discover a heretofore unknown people, B. Everyone in A has adequate health care, a reasonable set of opportunities, a basic education, and an

37. See, e.g., Will Kymlicka, *Contemporary Political Philosophy* (Oxford: Oxford University Press, 1990), pp. 61–62.

38. See David A. J. Richards, "International Distributive Justice," in *Ethics, Economics, and the Law*, ed. J. R. Pennock and J. W. Chapman (New York: New York University Press, 1982); Charles R. Beitz, "Cosmopolitan Ideals and National Sentiment," *The Journal of Philosophy* 80 (1983): 591–600, at p. 595.

adequate though not optimal share of resources for leisure. The citizens of B, however, are twice as rich, twice as happy, and have twice as many opportunities for leisure, education, and gainful employment as we have. We in A are worse off through no fault of our own. The citizens of B just do better than we do for reasons unconnected to our efforts, willingness to work, or even ingenuity. On the nonrelational view we have just discussed, we have a claim of justice against the citizens of B. Were the citizens of B to deny this, they would be violating our entitlements. The fact that our social position is in large part determined by bad brute luck is sufficient to generate a *prima facie* claim against anyone, anywhere to compensation.

Now contrast this nonrelational interpretation of the argument from moral arbitrariness with a very different one. Let us consider again our well-off representative citizen, who demands to know why she should not receive a return proportional to her individual contribution as defined by the marginal product of her labor. What I want to suggest is that there is a way to cast the argument regarding the moral arbitrariness of natural and social contingencies that appeals to our representative citizen's sense of reciprocity, and only derivatively to her sense that the unequal effects of bad brute luck should be neutralized or mitigated (as in the divided world case we just considered). To the well-off citizen, we might say:

'It is certainly true that what you contribute overall to the joint social product depends, in part, on your particular talents and abilities, and the use you make of them. But consider the way in which your ability to make use of your talents depends on the contributions of others. First, the very market in which your talents are valued depends not only on others' preferences and tastes but also on the system of law governing your territory, and to others being restrained by that law. Domestic markets—and, indirectly, global markets as well—require the background provided by the shared legal corpus of the state, which governs areas ranging from torts to administration to property rights, contracts, corporations, and criminal law. Without such a legal background, your talents and efforts would have been of little use to anyone, and would certainly not have garnered the returns they do now. And were people to have had different preferences and tastes, your talents might not have had any market value at all.

‘Second, consider that it is not only the market that depends on the contributions of others but also the opportunities you have had to develop your talents. It is your fellow citizens and residents who have provided the institutional framework in which you have flourished; it is they who have sustained and reproduced the basic goods, including the legal system, necessary for your successful participation in your society. Your talents, efforts, and skills, that is, have been able to win you social advantages only through the cooperation and contributions of other citizens and residents; while such talents, skills, and efforts surely have intrinsic merit—and therefore deserve admiration, recognition, and gratitude—this merit is independent of the monetary rewards which have been attached to various offices and positions.’³⁹

‘It is for these reasons that by constraining yourself by principles of justice that treat your social and natural advantages as morally fortuitous aspects of your circumstances, you give others a fair return for what everyone else has given you.’⁴⁰

This is a relational view that grounds the argument from moral arbitrariness in the idea of reciprocity rather than directly in the distinction between luck and choice. While it also makes use of the idea that the unequal impact of social and natural contingencies on outcomes should be mitigated, it does so only in light of certain further, normatively relevant relations among persons, namely relations of citizenship and residence. What triggers the special presumption against arbitrary inequalities is not the idea that no one should be worse off than anyone else through no fault of their own. The basis is fair, rather than narrowly self-interested, reciprocity: others are owed a fair return for what they have given you, just as you are owed a fair return for what you have given others. More specifically, those who have submitted themselves to a system of laws and social rules in ways necessary to sustain our life as citizens, producers, and biological beings are owed a fair return for what

39. Cf. Nagel, *Equality and Partiality*, p. 113.

40. I am indebted here to discussion in Allan Gibbard, “Constructing Justice,” *Philosophy & Public Affairs* 20 (1991): 264–79, which, interestingly, Rawls endorses in Rawls, *Political Liberalism*, p. 17n. See also John Rawls, *Justice as Fairness: A Restatement*, ed. Erin Kelly (Cambridge, Mass.: Harvard University Press, 2001), pp. 76–77 and 132. Cf. Brian Barry, *Theories of Justice* (Berkeley: University of California Press, 1989), pp. 234–41; Brian Barry, *Justice as Impartiality* (Oxford: Oxford University Press, 1995), pp. 46–51.

those who have benefited from their submission have received.⁴¹ Specific conceptions of reciprocity vary by the kinds of social relationships they are intended to regulate: what reciprocity requires among members of a football club will be different from the kind of reciprocity required among members of a family. Specific conceptions of egalitarian justice that draw on the argument from moral arbitrariness, on the relational interpretation I have just given, would provide a method for determining the fair return owed among mutual contributors to the reproduction and maintenance of a state (as characterized in Section III.A). Notice that in the divided world example, because there are no social and political institutions regulating the distribution and production of basic collective goods between the two peoples, there is also no basis for redistribution. In the absence of such interaction, the argument from moral arbitrariness is not sufficient, according to RBI, to create a demand for distributive egalitarianism.

To give an example of how one could move from joint provision and moral arbitrariness to specific principles of distributive equality, I consider Rawls's *justice as fairness*. This is more straightforward than it may at first seem. Once we have in hand the idea of moral arbitrariness, the conception of persons as free and equal, and the restriction in scope given by the bounds of reciprocity (which could be incorporated in the conception of society as a fair system of cooperation), it would be a short step to the idea that therefore the parties behind the veil of ignorance should be citizens and residents of states (rather than individuals *qua* human beings). With this restriction in scope in place, the argument for the two principles would follow much as it does in *A Theory of Justice*.⁴² On this interpretation, the two principles would represent the fair return that citizens and residents give one another for their joint participation in the maintenance and reproduction of the state. Though Rawls does not use this way of setting up the argument to motivate his defense of

41. There are two important differences here from classical arguments for obligations of fair play. First, RBI is used to motivate the argument from moral arbitrariness, rather than to explain why citizens have an obligation to obey just laws. Second, on the view I am defending, *voluntary* submission to the system of rules in question is not necessary for obligations of reciprocity of the relevant kind to apply. For the second point, and its connection to the provision of collective goods, see Richard Arneson, "The Principle of Fairness and Free-Rider Problems," *Ethics* 92 (1982): 616–33.

42. Of course, this does not imply that I endorse that reasoning. My point is only that the argument, whatever its merits, could be given an interpretation within RBI.

internationalism in *The Law of Peoples*, there is some support that he could have. For example, in *Justice as Fairness: A Restatement*, he writes:

The least advantaged are not, if all goes well, the unfortunate and unlucky—objects of our charity and compassion, much less our pity—but those to whom reciprocity is owed as a matter of political justice among those who are free and equal citizens along with everyone else. Although they control fewer resources, they are doing their full share on terms recognized by all as mutually advantageous and consistent with everyone's self-respect.⁴³

This passage supports the view that our attitude towards the worst off should not be, 'there but for the grace of god go I,' with clear resonances of the Christian ideal of *caritas*, but the *political* attitude we take toward fellows in a joint undertaking designed to secure the conditions required for a flourishing life. Our attitude to the worst off is grounded in a conception of reciprocity rather than directly in the idea that we have a natural duty to compensate the victims of bad brute luck.⁴⁴

There are two features of RBI that are worth highlighting. First, reciprocity-based conceptions of distributive justice usually underscore productive contribution to GDP (or, in more expansive versions, to a broadly defined social product that takes into account, for example, various forms of unpaid labor such as care for dependents). RBI, on the other hand, emphasizes our joint contribution to the reproduction and maintenance of the basic collective goods constitutive of the state.⁴⁵ The reason for this shift of emphasis, as we have seen in our response to the

43. p. 139.

44. I believe that this is the best way to understand, in turn, Rawls's reference to the distribution of natural endowments as a 'common asset.' What makes possible the benefits we can derive individually from social cooperation is only in part the use of our own natural endowments, taken in isolation; more importantly, the specialized use we can make of our natural endowments within any modern market requires the participation and cooperation of millions of others in a political, social, and economic division of labor backed up and enabled by the state. For the connection between the idea of 'common assets' and reciprocity, see Rawls, *Justice as Fairness: A Restatement*, pp. 75–77.

45. What about people who are able but unwilling to work? If they continue to comply with the laws (and if they continue to pay taxes, assuming they have any to pay), they are participating and contributing to the maintenance of the state according to RBI, hence aiding in the mutual provision of a system of societal norms which allows me, along with others, to develop and make use of my talents and abilities. They are, therefore, rightful beneficiaries of equality as a demand of justice. This leaves open whether it would be legitimate to scale the benefits to which they are entitled by their willingness to search for

well-off individual, is that mutual contribution to the structure that allows us to develop and make use of our talents is more fundamental than mutual contribution to economic production. Successful economic production and exchange on a societal scale cannot exist without a stable background of state-based civil and criminal law.⁴⁶

Second, the special presumption against arbitrary inequalities is, as I have said, grounded in the notion of reciprocity rather than in the idea that no one should be worse off than anyone else through no fault of their own. This is meant to exclude conceptions of justice which are grounded directly in the idea that the unequal effects of bad brute luck should be compensated *independently of the relations in which people stand*. But it is important to emphasize that RBI does not exclude conceptions of distributive equality, such as Dworkin's *equality of resources*, which claim that inequalities due to factors that are the result of brute luck should be mitigated. It says that the special presumption against such inequalities only applies among those who share in the maintenance and reproduction of the state.⁴⁷

C. Three Examples

To further motivate the relational interpretation of the argument from moral arbitrariness, I will discuss three ways in which the relational view better captures how we experience the pressure of egalitarian demands

work (given the ability). The important point is that such scaling would itself have to be justified in terms of a conception of distributive egalitarianism. On the notion of 'workfare' and its connection to reciprocity, see Stuart White, "Liberal Equality, Exploitation, and the Case for an Unconditional Basic Income," *Political Studies* 45 (1997): 312–26.

46. Cf. Karl Polanyi, *The Great Transformation* (Boston, Mass.: Beacon Press, 1985).

47. Cf. the beginning of *Sovereign Virtue*, where Dworkin claims that equality is the "virtue of sovereigns." He writes: "A political community that exercises dominion over its own citizens, and demands from them allegiance and obedience to its laws, must take an impartial, objective attitude to them all." He does not say why equality is a responsibility solely of "sovereigns" to their citizens, but he seems to endorse some version of coercion-based internationalism, given his reference to the demands of "obedience" and "dominion" (p. 6). The key point, however, is that the appeal to coercion could be easily replaced by an appeal to reciprocity using the armature of RBI. Appealing to the reciprocity-based view, we could say that equality of resources (through which the distinction between brute and option luck operates) only applies among those who together jointly provide the collective goods typical of life in a state. On this interpretation, the envy-test as deployed in both the initial auction and later use of a hypothetical insurance market would represent the fair return which citizens and residents owe one another for their support of the state.

in social and political life. I do not aim to provide a conclusive refutation of nonrelational interpretations of the argument from moral arbitrariness here. I limit myself to showing some of the implications of both views in three 'real-world' contexts. The hope is to illustrate that, in our search for reflective equilibrium, RBI has a net advantage over its nonrelational competitor: it better matches our considered convictions regarding the place of egalitarian ideals in our social and political life, here and now.

First, there are no egalitarian social movements that have based their struggle against injustice solely on being the victims of bad brute luck.⁴⁸ Consider the disability rights movement. When Harriet McBryde Johnson, who suffers from a severely debilitating muscle disease and who is a civil rights activist, protests the injustice of U.S. society, she does not stake her claim on the fact she has been unlucky, and deserves compensation in virtue of that fact. In fact, she actively *resists* precisely that common assumption. Rather, she protests the injustice of U.S. society as "a representative of a minority group that has been rendered invisible by prejudice and oppression."⁴⁹ Her complaint is about the lack of equal standing as a citizen—about the obstacles she faces to participating in the public to which she is a contributor. Although she cooperates and contributes to the joint provision of those basic goods and services necessary for her society to function, she is denied the basic capabilities to engage others, on an equal footing, in a common social and political space. It is in virtue of these further facts about her relations with other citizens that she believes she is entitled to equality as a demand of justice. With good reason, she does not feel that she has (even a *prima facie*) claim against *any* person *anywhere* who is better off and in a position to compensate her. Rather than the Achilles heel in a

48. For this point, I am indebted to Samuel Scheffler, "What Is Egalitarianism?" *Philosophy & Public Affairs* 31 (2003): 5–39, at p. 22, although it is important to emphasize that the aim here has been to show how one can recast the basic luck egalitarian distinction between choice and circumstance (however one wishes to draw it) within a reciprocity-based framework rather than to reject it *tout court*. RBI could be considered, in this sense, as providing a basis for an "egalitarianism that begins from the question of what relationships among equals are like" (p. 37).

49. Harriet McBryde Johnson, "Unspeaking Conversations," *New York Times Magazine*, February 13, 2003. Appeals to reciprocity in the Disability Rights Movement are common. See, e.g., Steven R. Smith, "The Social Construction of Talent: A Defense of Justice as Reciprocity," *Journal of Political Philosophy* 9 (2001): 19–37.

reciprocity-based account (as is often assumed), disability, when put in its proper political context, is an example of one of its *strengths*.⁵⁰

The second example is drawn from the situation of migrant workers in contemporary China.⁵¹ He Qingzhi's daughter, Yuan, was crushed in a traffic accident, along with her two friends in Guojiatuo, a small city in central China. The three girls lived in the same neighborhood, attended the same schools, and their parents earned similar wages in similar lines of work. The parents of Yuan's two friends, however, received roughly three times the compensation for the death of their daughters than Yuan's family did. The reason is that He Qingzhi is a migrant worker whose rural residency status disqualifies him from a wide array of services and entitlements open to Guojiatuo residents.

It may seem that a nonrelational interpretation of the argument from moral arbitrariness is best equipped to account for the injustice of this case. The nonrelational theorist would say that rural residency status is a morally arbitrary aspect of Yuan's family circumstances—a product of brute luck rather than choice—and so should make no difference to the compensation her family is entitled to. RBI has a similar structure in cases like this, with one crucial difference. For RBI, the fact that rural residency status is an arbitrary feature of Yuan's family circumstances is relevant, but not directly because we have a nonrelational duty to mitigate the unequal effects of bad brute luck on the distribution of social benefits and burdens. After all, whether one is a resident of Copenhagen or Guojiatuo also has an impact on one's entitlement to compensation (Copenhagensers would receive, on average, about four times as much as

50. What about the very severely disabled, those, that is, who cannot contribute or cooperate in any way to the reproduction of the state, and who would not have the capability to do so under any feasible scheme? RBI would say, in this case, that they do not have any claims deriving from a conception of distributive equality. This does not mean, however, that they have *no* claims in justice. They have claims which derive from their equal moral worth and dignity as human beings, which include claims to the alleviation of suffering and pain, where possible. Cf. Robert E. Goodin, "What Is So Special About Our Fellow Countrymen?" *Ethics* 98 (1988): 663–86; Allen Buchanan, "Justice as Reciprocity Versus Subject-Centered Justice," *Philosophy & Public Affairs* 19 (1990): 227–52.

51. "Three Deaths in China Reveal Disparity in Price of Lives," *New York Times*, April 14, 2006. By considering such a 'microcase,' I do not mean to imply that one could not evaluate the justice of the Chinese basic structure as a complete system. The example is meant to elicit our considered judgments, rather than to provide an example of how to apply a conception of justice to a specific case, which would require much more information than we can provide here.

residents of Guojiatuo in cases like this). For the nonrelational theorist, both inequalities are equally arbitrary and so equally objectionable (it is just as much a product of brute luck to have been born in Copenhagen as to have been born in a Chinese city). RBI resists this inference. What makes the inequality in compensation between the residents of Guojiatuo (and indeed the residents of Guojiatuo and a rural city) more troubling than the inequality between a Chinese and a Dane is the fact that the residents of Guojiatuo depend on, contribute, and are subject to the same system of legal and political institutions that make up the Chinese state. In maintaining the inequality between those with resident status and those without, the Chinese do not give rural migrants a fair return for what they give everyone else. It is for *this* reason that migrant workers have a complaint—captured in a conception of equality that treats natural and social advantages as morally arbitrary—against their fellow Chinese citizens and residents that they would not have with respect to the Danes.

So far we have discussed two examples that highlight the strengths of RBI. The third example I will use to illustrate the plausibility of RBI is the welfare state. By the welfare state, I mean, roughly (a more precise definition or typology is not needed here), a political system that “severs the direct link between what someone earns, or otherwise receives through market mechanisms, and his access to goods and services.”⁵² Across all of the subdisciplines in social science, it is widely accepted that one of the main motivational sources supporting the welfare state is reciprocity rather than rational egoism, unconditional altruism, or, for that matter, the notion that we have a nonrelational duty to compensate the unlucky, namely those who are worse off through no fault of their own. Not only does the idea that the welfare state is a system of “organized and generalized reciprocity”⁵³ constitute a prominent argument for the emergence of the welfare state (think, for example, of the very earliest compensation schemes for disabled veterans and workers), but it also pervades research in economics, sociology, and political science.⁵⁴ This is not the

52. David Miller, “What’s Left of the Welfare State?” *Social Philosophy & Policy* 20 (2003): 92–112, at p. 95.

53. Steffen Mau, “Welfare Regimes and the Norms of Social Exchange,” *Current Sociology* 52 (2004): 53–74.

54. For disabled veterans, see, e.g., Theda Skocpol, *Protecting Soldiers and Mothers* (Cambridge, Mass.: Harvard University Press, 1992). For workers (the so-called Soldiers of

place to review these literatures. The basic idea is simple: individuals are more willing to grant their ‘contingent consent’ to policies and institutions in which burdens and benefits are perceived to be widely and fairly shared—as in ‘universalist’ welfare states like Sweden—and less willing when public services are (perceived to be) inconsequential or inefficient and when free-riding and parasitism are (perceived to be) rife. If these literatures are correct, if, that is, the attitudes supporting the ‘real-world’ institutional framework commonly associated with contemporary egalitarianism, namely the welfare state, are both reflected in as well as given shape and coherence through the idea of reciprocity, then this supports RBI. Once again, I am not denying that an important motivational basis for the welfare state is a sense that inequalities due to unchosen and undeserved factors are objectionable. Rather, my claim is that the distinction between choice and circumstance on which the idea relies only becomes relevant for a conception of justice in the presence of relationships of institutionalized reciprocity.

It is important to emphasize that the aim is *not* somehow to extract a theory of distributive equality from empirical research on common attitudes in modern democracies. RBI is meant to provide, after all, a critical standard that is meant to compete directly with common ‘opinion.’ Indeed, it urges us to be critical of the *inegalitarian* aspects of (most) contemporary welfare states (especially in so-called liberal or Anglo-

Industry), see, e.g., the 1942 Beveridge Report (discussing the idea that the solidarity of the war effort should continue in the responsibilities of the state for its citizens). See also Richard Morris Titmuss, “War and Social Policy,” in *The Philosophy of Welfare: Selected Writings*, ed. Brian Abel-Smith and Kay Titmuss (London: Allen & Unwin, 1987). In economics, see, e.g., Bowles and Gintis, who write, “In the advanced economies, a substantial fraction of total income is regularly transferred from the better off to the less well off, with the approval of the electorate. . . . We find that voters support the welfare state because it conforms to deeply held norms of reciprocity and conditional obligations to others” (Samuel Bowles and Herbert Gintis, “Reciprocity, Self-Interest and the Welfare State,” *Nordic Journal of Political Economy* 26 [2000]: 33–53, at p. 33). See also Assar Lindbeck et al., “Social Norms and Economic Incentives in the Welfare State,” *Quarterly Journal of Economics* 114 (1999): 1–35; Ernst Fehr et al., “Strong Reciprocity, Human Cooperation, and the Enforcement of Social Norms,” *Human Nature* 13 (2002): 1–25. In sociology, see, e.g., Marshall David Sahlins, *Stone Age Economics* (Chicago, IL: Aldine-Atherton, 1972). And in political science, see, e.g., Bo Rothstein, *Just Institutions Matter* (Cambridge: Cambridge University Press, 1998).

Saxon welfare states).⁵⁵ But if RBI traces the (radical and perhaps unexpected) implications of people's pretheoretical intuitions supporting the welfare state, then that is, I believe, a point in its favor.

D. Global Interdependence

One might object that it is not at all true that citizens and residents owe their ability to develop and make use of their talents and abilities predominantly to other citizens and residents of the same state. Take, for example, an Italian textile worker. Whether she loses or keeps her job may depend more on decisions affecting labor costs taken by the Slovenian government and Slovenian textile manufacturers than it does on the Italian state.

This is not to the point. It is certainly true that her current job depends on the competitiveness of the Italian textile industry, and that this competitiveness is a function in part of decisions taken in Slovenia. But that is not the kind of interdependence that I have argued triggers obligations of justice as reciprocity. For RBI, liability to influence, even if 'profound and pervasive,' is not sufficient for equality as a demand of justice to apply. Equality applies only in circumstances in which we share in the reproduction of a legal-political authority that is ultimately responsible for protecting us from physical attack and sustaining a stable system of property rights and entitlements. The Slovenian government neither provides her with security against physical attack nor protects and delineates her property rights and entitlements. So there is no requirement to equalize the distribution of benefits and burdens among Italians and Slovenians. Consider, furthermore, which set of institutions is able to maintain her capabilities, over a complete life, to secure an adequate income, to participate in the labor market, and to seek new skills and training (all capabilities guaranteed by the Italian state). If she were to lose her job, it would be the *Italian* state that would provide or guarantee some form of unemployment compensation, retraining, housing, and so on. When seen in this perspective, it is clear that her capability to find and keep a job depends in the last instance to a much greater extent on the contributions of her fellow citizens and residents than on the Slovenian state.

55. Cf. Miller, "What's Left of the Welfare State?" See also the distinction between the "welfare state" and a "property-owning democracy" in Rawls, *Justice as Fairness: A Restatement*, pp. 138–39.

RBI, however, does not entail there are no distributive obligations among Italians and Slovenians. Indeed, different principles of distributive justice will apply to the shared institutional structure of the European Union (of which both Italy and Slovenia are members) as well as other nonstate orders in which Italians and Slovenians participate. But these principles will be different in both form and content than those appropriate at the domestic level, precisely in virtue of the different nature and character of those institutionally mediated relationships. The important point for us is that, because Italians do not ultimately rely on Slovenians for the basic goods necessary to pursue and develop a plan of life, distributive *equality* is not a demand of justice among them.

We might wonder what implications RBI might have for a nightwatchman state, a state that, let us say, does not claim any responsibility for providing basic goods and services to its citizens and residents. Let us assume, the objector stipulates, that the talents and abilities of the well off have been developed and acquired through purely private means (private education, health care, transportation, and so on). In what sense does egalitarian reciprocity apply to *them*, given that the well off do not depend on other citizens and residents for the basic conditions necessary for them to flourish? The empirical premise on which this objection relies is false. The well off in this society *do* depend for their capacity to make use of their talents and abilities on the contributions of other citizens and residents to the basic goods required to develop and act on a plan of life. Other citizens and residents contribute via compliance with extant private law (through which the well off have acquired their possessions and on which the private services from which they have benefited have depended), taxation (through which the military, police, and legal systems are maintained, and hence the physical security and possessions of the well off secured), and in many cases military service (through which the well off, along with everyone else, are protected from external attack). Without the contributions of other citizens and residents, the well off would not have been able to maintain any of the benefits and advantages that establish their favored perch. In continuing to support the nightwatchman state, RBI says that the well off are therefore failing to provide a fair return—captured by principles that treat their natural and social advantages as morally arbitrary—for what fellow citizens and residents give them.

E. The State System

An objector may argue: “If considerations of global justice apply, they must apply regardless of the existing global cooperative arrangement. We misconstrue the aim of justice if we allow justice to be limited by our pre-existing institutions. Constraining the applicability of justice to whatever social arrangements we currently happen to have ‘would arbitrarily favor the status quo,’ which is plainly contrary to the aim of justice.”⁵⁶

Notice that the structure of the objection would apply not only to RBI, but to any relational view (including coercion-based internationalism). As stated, however, the objection offers no reasons for preferring a nonrelational view. It simply asserts that what relational views deny, namely that justice (conceptually?) must not be ‘limited by our pre-existing institutions.’ Even if one believes my defense of RBI is insufficient to seal the case against nonrelational conceptions of distributive equality *tout court*, it is not clear why relational views should have the burden of proof.

Perhaps the worry is that RBI presupposes the existence of the modern state. Shouldn’t a theory of distributive justice be able to tell us whether the modern state, as a political form, is *itself* justified? There are at least three ways of bringing out the force of this objection. First, one might wonder on what grounds we may justifiably favor citizens and residents in maintaining and reproducing the generalized scheme of reciprocity generated by the existence of the state. Second, and closely related, one might question whether RBI gives us any reason to forcibly exclude noncitizens at the border. Third, one can ask whether a conception of distributive justice should instruct us on how to design the scope and shape of domestic, international, and global legal-political authority, including the collective goods for which it is responsible, instead of simply assuming, as RBI does, the existence of a modern state system, and only then ask what duties of justice we have within it.

Kok-Chor Tan powerfully articulates the first form of the objection:

[E]ven if we grant that the ideal of reciprocity is restricted to our fellow citizens . . . , we still need to ask why we are imposing that scheme on

56. Kok-Chor Tan, *Justice without Borders* (Cambridge: Cambridge University Press, 2004), p. 59, quoting Beitz, “Cosmopolitan Ideals and National Sentiment,” at p. 595.

this particular group of individuals and not another. This question is especially poignant when our scheme . . . is comparatively more advantageous than other similar schemes. . . . To say that sharing a social scheme justifies favoring fellow members is therefore question-begging in a context of global inequality, for the very act of sharing a social scheme with some and not with others . . . is already an act of favoritism that needs to be accounted for.⁵⁷

This objection seems to me to beg the question against RBI, rather than the other way around. It is certainly true that if B has a claim-right to A's cooperation in some joint project, then A cannot rid herself of that obligation by entering into another relationship of mutual benefit with C. A owes B an explanation. I see no reason why, in the absence of such a prior obligation, A owes B a justification of her 'favoritism' towards C. The objection assumes a globalist answer to the very question at stake, namely whether we have a claim to egalitarian shares of the global social product (as globalists claim), in which case we would be violating the claim-rights of noncitizens by 'favoring' compatriots. Or whether we only have a claim to egalitarian shares vis-à-vis fellow citizens and residents, in which we only violate the claims of outsiders if we violate their entitlements as given by an *internationalist* conception.

The second form of the objection takes a slightly different tack. Rather than rely on the premise that equality is a demand of justice at the global level, it claims that RBI offers no reason to forcibly exclude noncitizens at the border.⁵⁸ The objection allows us to highlight one of the strengths of RBI. Unlike some forms of liberal nationalism, it is true that RBI offers no reason to grant states and their citizens an *unrestricted* right to close their borders. RBI, I believe, is in fact most compatible with a prima facie claim in favor of open borders, subject to the proviso that an open immigration policy not undermine the capability of both the receiving and the sending state to provide those basic goods and services necessary to develop and act on a plan of life (the borderless zone within the European Union is, for example, consistent

57. Tan, *Justice without Borders*, p. 175; see also Samuel Scheffler, *Boundaries and Allegiances* (Oxford: Oxford University Press, 2001) on the "distributive objection."

58. Cf. Peter Singer, *One World* (New Haven, Conn.: Yale University Press, 2002), pp. 169–70.

with RBI). RBI therefore agrees that immigrants have a *prima facie* claim to open borders, but, contrary to Joseph Carens, it denies that they have a claim deriving from a nonrelational interpretation of the argument from moral arbitrariness.⁵⁹

With regards to the third form of the objection, I see no reason why RBI needs to provide a justification for the existence of the state system. RBI says that equality applies among those who share in the provision of the basic collective goods required to develop and act on a plan of life. Currently (including within the European Union), states are the agents ultimately responsible for the provision of such goods. This does not imply the further claim that we are currently in the best of possible worlds. It may be, for example, that other organizational forms (including, possibly, a world state) are more efficient at providing basic collective goods, more stable, less prone to war, or even more likely to lead to the protection of human rights.⁶⁰ RBI simply says that, until such forms arise, the demands of distributive equality cease at the borders of states. Theories that seek to outline new global orders ‘beyond the state’ are more ambitious in their aims than RBI, but they pose no direct challenge to it (unless, of course, they begin from the premise that equality is a demand of justice at the global level).

IV. CONCLUSION

Cosmopolitans believe that all human beings are of equal, general, and ultimate moral concern. The argument I have provided seeks to show that such *moral* equality only generates a demand for *social* equality when we share membership in a state. It might be thought that this cannot be the case, since the argument I have presented demonstrates that we should give *priority* to the interests of fellow citizens and residents, and hence that we owe them *unequal* concern. This is, I believe, a misleading way to characterize internationalism. The internationalist says that our morally legitimate interests in the domain of social equality—the interests that create demands on others to secure our

59. J. H. Carens, “Aliens and Citizens: The Case for Open Borders,” *The Review of Politics* 49 (1987): 251–73.

60. For the last claim, see Pogge, *World Poverty and Human Rights*, chap. 7.

access to egalitarian shares—flow from a conception of justice. We do not therefore give *priority* to the morally legitimate interests of citizens and residents over those of others; in respecting the demands of an *internationalist* conception of justice, we treat all individuals' morally legitimate interests as having ultimate, general, and equal concern.