

# **Justice for States: Conceptualizing the Possibility of Principles for International Justice**

## **A Summary**

### **Introducing the Study**

The main concern of this study is to critically explore the possibility of arriving at principles for international justice – for justice among states. I must clarify that when raising the issue of justice among states, I am only concerned with the claims that fall under the ambit of social justice. My focus on claims of social justice in the international realm does not in any way suggest that other claims of justice, such as those of the justness of war, the boundaries of states, and/or the concern for refugees, to mention a few, are of lesser importance. In fact, the world we live is witnessing an increased instance of such injustices, which need to be understood conceptually and addressed politically. However, the main concern of this study is only to critically examine and attempt to discern the conditions and possibility of arriving at principles of social justice which can be applied at the international realm.

The international realm which is constituted by states as the main units has been structured in a way, which is determined historically as well as strategically. An examination of the politics and positioning of the different states today would underscore that although there is a degree of equality manifest in the membership of the General Assembly of the United Nations, there continues to be a gross and unjustified unequal positioning, or what John Rawls would refer to as ‘starting point’, of different states, which does deeply impact on the standing and leverage that they enjoy. But more importantly, these unequal positions and starting points do also deeply influence the daily life experiences of the citizens and members of these states, in ways which challenge the establishment and guarantee of justice within

societies. Even if a society were to fully implement a credible theory of justice for its citizens or members within its boundaries, the influence and impact of the international realm, especially if it were located in a position of disadvantage could harm or hinder the satisfactory application of justice. Put differently, in the world we inhabit today, justice within borders deeply and substantially depends on justice outside borders.

There can be several questions raised when determining the principles of international justice, some of which are: what is the bases for determining just and/or unjust inequalities in the international realm? When can a state be understood to have experienced an unjust inequality which merits or necessitates correction? What are the suitable corrections which a state deserves when responding to a unjust inequality? Or what ought to constitute the bases for ascertaining an equal starting point for all states?

In this study, I focus on the question: What ought to be the conceptualization of the self when determining the bases for justice for states? In other words, in what way should the state be conceived of as when the issue of justice in the international realm is raised or responded to? What is the basis of the political in determining social justice in the international realm? What is and what ought to be the underlying self/other relationship among states when determining principles of social justice. I obviously need to justify my focus on this question.

### **The Centrality of Justice and the Self/Other Relationship**

Justice has for long and in fact from the beginning of political theorizing, been held and regarded as the basic if not defining value for all social and political institutions. Among the many values and ideals that have come to be regarded as imperative for a legitimate social

political setup, justice has more often been celebrated and underscored as the most determining and decisive. It has been considered as the bases for the goodness or rightness of a social political order as well as the measure for almost all other considerations. Justice is not only a value in itself; indeed it is the value of all other values – the determinant of all political ideals and considerations.

The concern with justice has been a dominant factor in political theorizing, since antiquity. Since the dialogues of Plato, and perhaps even earlier, justice has been understood as the fulcrum of all social and political life. The central thematic of Plato's *Republic* remains the working out, legitimizing and establishment of a just political setup; and it is thus that Socrates claimed that "to live well and honourably and justly, are the same thing".<sup>1</sup> The state, as understood from earlier times was constituted in terms of an institution committed primarily to the determining and guaranteeing of the ideal of justice. In fact, this understanding of the state is equally present in almost all strands of political thinking: the idea of a republic in Plato's arguments; the concern with the protection of property in the theory of Locke; the guarantee of *nyaya* and/or the establishment of *dandaniti* and *dharma* in classical Hindu philosophy or even the idea of *dhamma* in Buddhist philosophy, to mention just a few.

However, soon the state's concern with justice was eclipsed or overtaken by the imperative of order. This eclipse, however, many would argue was not unconscious or unplanned. As Philip Bobbitt would argue, the state was consciously worked out and conceptualized as a "war making institution" with power as its basic concern<sup>2</sup>; and this was done to facilitate the setting up and justification of a state which would be geared towards the establishment and

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<sup>1</sup> Plato, *Critop.* 48 Taken from Richard Bellamy and Angus Ross (1996)p. 15

<sup>2</sup> Philip Bobbitt (2002)

sustenance of order among its members. Interestingly, the idea of the subject/citizen was understood as one who, in the absence of the controlling and regulative powers of sovereign authority, merely failed to live in an ordered and well-managed society. Interestingly, much of modern political theory carves out an understanding of social life to legitimize the desirability and possibility of an order-regulative state. An influential thinker in this regard, and one who is among those considered responsible for the opening of the modern and thereby rationally consensual idea of the state, Thomas Hobbes, works out his understanding of man who is engaged in a ceaseless and endless struggle for power and whose life in such a situation is “solitary, poor, nasty, brutish and short”. In this war-like state of nature, men are deprived of the ability and rationality to establish and sustain a well-ordered life, and are therefore driven towards the rational contractual creation of the state, which in turn facilitates the guarantee of a social political setup comparatively free from the exigencies of war.

Similarly, John Locke while inaugurating the philosophical bases of liberalism, paints a comparatively lesser but nevertheless grim picture of mankind. According to Locke, men are unable to live a secure existence, mainly in terms of their freedom and property. Even as the state of nature is not as dark or fearful as Hobbes would have us believe, it is sufficiently threatening as the absence of law leaves men deprived of the authoritative institutions of resolving conflicts of ownership and freedom. Unsurprisingly then, the state, according to him, which was contracted by such men had to necessarily be one which would contribute to the guarantee of a secure, orderly and regulated social and political order. For such thinkers, and for much of the canon, for a rather long time, the state and law was essentially an instrument for the establishment and protection of order. Drawing and learning from the canon, mainstream political theory went on to focus on the concerns of order, power and war.

This concerted focus on order and war, however, was questioned and rethought of with the publication in 1971 of John Rawls's *A Theory of Justice*, wherein justice is recognized and regarded as "the first virtue of all social and political institutions".<sup>3</sup> Rawls's *A Theory of Justice* is undeniably one of the most important works of political theory in the twentieth century. It has not only revived the tradition of political theory, which was considered to be dying, if not dead; it has also, and perhaps more importantly restored justice as the principal and foundational value in the establishment and sustenance of a good/right political setup. Rawls through his principles of the original position, veil of ignorance and equal primary social goods, has elegantly worked out a theory of justice which aims at the correction of unjust inequalities by maximizing the benefit of the least advantaged through the guarantee of the difference principle.

The thematic of justice continues to dominate much of the discourse of contemporary political theorizing. The theoretical arguments of such thinkers as John Rawls, Charles Taylor, Nancy Fraser, Robert Nozick, F A Hayek, Michael Walzer, Michael Sandel, I M Young and Paul Ricoeur, to mention a few, have contributed to the establishment of a extremely rich and potent discursive terrain focused on the claims, claimants and circumstances of justice. The discourse on justice today carries such arguments as procedural vs. substantive basis of justice; liberal and non-liberal traditions of justice; issues of redistribution vs. issues of recognition and protective and corrective concerns of justice. Perhaps it may not be entirely incorrect to say that contemporary political theory is distinctive in its commitment to the concern of justice.

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<sup>3</sup> John Rawls (1971) p.3

A critical reading of the recent developments in contemporary political theory would reveal differing conceptualizations of justice, ranging from ideas of liberal equality, to the multicultural theory of inclusion and going on to the feminist idea of care. At the centre of, in fact determining such differences is the underlying conception of the self and other – the basis of the political. Politics, simply understood, is marked out in terms of the relationship between the self, the citizen, the agent and/or the major on one hand with the other, the alien, the subject and/or the minor on the other. The conflict of rationally determined interests and intentions between the self and the other, to the extent that the other may freely determine her interests, characterize the domain of politics, marking out its distinctiveness from other realms of social existence. And perhaps this is why Aristotle is regarded as the father of the discipline of politics, because he, unlike his predecessor Plato, successfully identified the relationship between the self and the other while marking out the domains of the *polis* and *oikos*.

An examination of the differing strands of justice would demonstrate that a shift in the narrative of political theorizing – from the concern with order to the imperative of justice – follows from a shift in the strategy of this relationship; while order entails the understanding of the self as the self; justice necessitates the conceptualization of the self as the other. Both Rawls and Taylor, who have spearheaded the theories of justice as redistribution and recognition respectively, require that the self, in reflecting on the concerns of justice, conceive of himself as the other, as the disadvantaged or misrecognized. And this is what leads to the possibility of a principle of justice, whether it be the Principle of Difference or the Principle of Recognition. In fact, Rawls's principle of maximin is essentially his attempt to compel the category of the advantage, put differently, the self, to position himself as the other, when arriving at principles of redistributive justice. It may therefore not be incorrect to

suggest that underlying contemporary theorizations of justice is the conception of the self/other relationship, and then differing understandings of this relationship.

### **Introducing the Imperative of Justice for States**

In an important article, Thomas Nagel says:

We do not live in a just world. This may be the least controversial claim one could make in political theory. But it is much less clear what, if anything, justice on a world scale might mean, or what the hope for justice should lead us to want in the domain of international or global institutions, and in the policies of states that are in a position to affect the world order. I believe that the need for workable ideas about the global or international case presents political theory with its most important current task, and even perhaps with the opportunity to make a practical contribution in the long run....<sup>4</sup>

While there has been sufficient attention, in contemporary political theory, on the conceptualization of justice within societies and communities, little attention has been given to working out the basis of justice for the relations among states. In fact, such has been the concern with justice within societies, that there has been a blossoming of different theorizations of justice, with a focus on diverse experiences and instances of injustices: such as the idea of redistributive justice which focuses on the injustices of maldistribution; the politics of recognition which attempts to correct the political injustice of misrecognition and the practice of restorative justice which seeks to rehabilitate and restore the life of a victim, among many others. However, despite the equally important and crucial need for a theory of

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<sup>4</sup> Thomas Nagel (2005, p. 113)

justice among states, there has not been a comparatively substantial development in political theory in this regard.

Without undermining or questioning the relevance of the contributions that these scholars have made to the discourse on justice, it may not be entirely incorrect to state that they have worked out principles of justice only for the internal structures of states, leaving unaddressed the injustices of the engendered private space and the international society of states.

As we need principles of justice to regulate the domestic basic structure whose impact on people's lives is "profound and present from the start"<sup>5</sup>, so there is a global basic structure – a structure of states, whose impact on people's lives is as profound and present that must likewise be regulated.<sup>6</sup> This domestic-global basic structure analogy is obviously not airtight. There is no global government, nor are international economic norms and regulations as fully enforceable as those in domestic society. But what is relevant here is that global institutions and practices do significantly constrain and shape a person's life chances and options. As suggested by Kok-Chor Tan, "like the domestic basic structure, global institutions define people's various social positions, and consequently their expectations in life.... The practices and operating assumptions of the global economic arena determine a person's chances and goals just as profoundly and presently as domestic economic practices and norms, indeed more so.... A mere accident of birth, such as person's citizenship can drastically affect her entire life expectations and opportunities."<sup>7</sup>

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<sup>5</sup> John Rawls (1971, p.7)

<sup>6</sup> See Allen Buchanan (2000)

<sup>7</sup> Kok-Chor Tan (2004, p. 27)



And yet, there has been little, if any similar developments in the theorization of justice among states. In fact, much of the focus on international justice has been on the conceptualization of just wars and unjust wars – about when a state can justly engage in armed conflict against another state. Michael Walzer's magnificent work titled *Just War, Unjust War* sheds substantial light on the justness of war among states by drawing from Hugo Grotius's main arguments on the idea of just war. However, there has been somewhat insufficient attention paid to the imperative for social or redistributive justice among states.

It would be somewhat incorrect to suggest that the issue of redistributive or social justice does not apply to the relationship among states. The world we live in today is characterized by gross inequalities – social, economic, historical and political – which do influence the position and power that states hold in relating to each other in the international realm. More importantly, the unjust inequalities that characterize the international world do in a significant and substantial way affect and determine the life chances and opportunities of the average citizen within such states, so that the inequality of the state in relation to other states gets translated into an inequality which the citizen experiences inside the state. And then, it may be entirely incorrect to suggest that these inequalities are just or earned; rather they are substantially accidental and unjust, and thereby merit a correction. Put differently, for the person to inhabit a just space we do strive to correct the social economic order which he inhabits; however, this may be rather insufficient in the absence of a concerted attempt at correcting and making just the social and economic order which states construct and inhabit.

There have been some significant contributions to the discourse on international justice, such as the works of Hedley Bull, John Mearsheimer, Michael Walzer, Kok-Chor Tan and Charles

Beitz among others. However, much of these theorists have gone on to work through the idea of international justice by considering a restructuring of the international state system. Hedley Bull, for instance, in his work *Anarchical Society*, argues in favour of a society of states, wherein states are idealistically oriented towards the injustices that are experienced by other states. Similarly, Mearsheimer in his work, *The Tragedy of Great Power Politics*, attributes the absence of a theory of international justice to the nature and characteristics of the international political power structure, and thereby argues in favour of a change in this structure itself.

Perhaps the most significant contribution to the idea of international justice, in recent times, has been John Rawls's book *The Law of Peoples*. In this work, Rawls critically explores the possibility of extending and applying the principles of justice which were worked out in his most celebrated work *A Theory of Justice* to the international realm. So, should global distributive justice simply be conceived as a planet-wide blow-up of domestic distributive justice so conceived? Rawls himself, it turns out, firmly rejects this option. Rawls's arguments are poised around his classification of states into "five types of domestic societies": first, "is reasonable liberal people; the second, decent peoples... third, outlaw states... fourth, societies burdened by unfavourable circumstances... (and) fifth, ... benevolent absolutisms."<sup>8</sup> In this work, Rawls clearly determines a theory of international justice by shifting the underlying conception of the self from states to peoples - something that he does deliberately and for which he gives a suitable justification. Concluding this work, Rawls states that "a reasonably just Society of Peoples is *possible*. It establishes that such a world can exist somewhere and at some time, but not that it must be or will be."<sup>9</sup> In this way,

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<sup>8</sup> John Rawls, *The Law of Peoples* (Harvard University Press, 2001) p.4

<sup>9</sup> John Rawls, *The Law of Peoples* (Harvard University Press, 2001) p.127

Rawls opens up the possibility of rethinking the basis of justice for states by reconsidering the conception of the self.

The question then, which this study focuses on is: what are the conceptions of the self and the other which ought to constitute the bases for international justice? What ought to be the underlying idea of and relationship between the self/other when determining principles for justice among states? The conception of the state as understood in contemporary times is one in which each state understands itself as the self; in fact international politics appears to be considerably devoid, and rightly so, of a credible politics of the other. Is this the main reason which hinders the working out of principles of international justice? And if yes, then what ought to be the conception of the self/other when determining justice for states? In a world which is comprised of sovereign states, perceived of as selves, can there be a concern for justice? Would recognizing the imperative of justice in the international realm necessitate the emergence of a category of the other? Which state would occupy the position of the other, and on what considerations? These are some of the questions that I attempt to address in this study. This study is then concerned with critically analysing the differing conceptualizations of the relationship between the self and the other in the dominant theories of international justice in an attempt to determine the basis for arriving at principles of justice for states.

### **Research Methodology**

This study is mainly concerned with a normative conceptual understanding of justice for states, and as such does not rely primarily on empirical quantifiable data. The research methodology which I have adopted in this study is mainly content analysis and a critical hermeneutic approach. My reliance on a non-empirical methodology does not suggest the inefficacy of this method in studying the issues of international justice. In fact, there are

several studies which rely on empirical methods to demonstrate the need as well as suggest the basis for international justice. In this study, however, I focus only on conceptual possibilities.

### **Chapter Scheme of the Study**

In determining the possibility of arriving at principles for justice among states, this study is divided into five chapters. The First Chapter opens the study by introducing the imperative for justice. Put differently, why justice? A rather dominant argument for some time had been that in the realm of politics there can be no place for justice. In fact, justice was understood to occupy the space of ethical and moral philosophy. In the first section of this Chapter, I introduce the imperative of justice in the contemporary political theory for some time now. It seeks to explain the need and relevance of justice for a good and right political order. The second section focuses on the conception of the self/other in contemporary theories of justice. The discourse on justice is rather rich and substantial with differing theories of the due, and much of these differences follow from a specific reading of the nature of the self and the other and the relationship that binds or behoves them. In this section, I underscore the need for an idea of the self and the other in order to work out a credible theory of justice. The third section is devoted to introducing the imperative of justice for the system of states. The international realm has often been defined exclusively and mainly in terms of a struggle for power, wherein there is little, if any place for the moral claims of justice. In this section, I engage with the importance for justice in the international realm by suggesting that much of the claims of justice within states borders depend substantially on justice outside borders. The fourth section carries a brief survey of the literature which is contained in the discourse on international justice. Here, I critically read such works as Hedley Bull's *Anarchical Society*; John Rawls's *The Law of Peoples*; Kok-Chor Tan's *Justice Across Borders*; Michael

Walzer's *Just and Unjust Wars*; and Andrew Atman and Christopher Heath's *A Liberal Theory of International Justice*. The last section of this chapter is devoted to outlining the concerns and organization of the study.

The main concern of this study as mentioned above, is to discern the conceptions of the self and the other which ought to constitute the bases for international justice? In attempting a response to this question, the study critically examines the relationship between the self and the other in three different traditions of justice in international political theory: the liberal tradition; the cosmopolitan tradition and the communitarian tradition. The Second Chapter is devoted to a critical reading of Rawls's *Law of Peoples*. The first section of the chapter looks at Rawls's conception of Justice as Fairness, a conception which is at the heart of his conception of international justice. The second section explores Rawls's idea of international justice and situates it largely within the liberal tradition. The third section analyses the idea of the self/other in the Rawlsian conceptualization. As mentioned above, Rawls perhaps may be among the few that recognize the need to work out a conception of the self, for which he reads the self in international politics as "peoples" rather than as "states". In this way, Rawls is able to explore the possibility of arriving at international justice by beginning with a conception of the self. The issue however, is that the other in the Rawlsian understanding is a fixed category – "outlaw states". The chapter concludes with an assessment of the contributions that Rawls has made to the ongoing discourse of justice as well as the credibility of this theory in providing the basis for principles of international justice.

The Third Chapter is concerned with the logic of cosmopolitanism and the imperative of international justice. In recent times, there has been a concerted focus on invoking rigor to the theory of cosmopolitanism. In fact, political theorists like David Held have considerably

worked out cosmopolitan theory as the newer bases of international politics especially in the light of the globalizing world. The question that this chapter seeks to raise and attempt a response to is: Does cosmopolitanism offer the basis for arriving at principles of justice among states? The chapter begins with an attempt to introduce the logic of cosmopolitanism. Cosmopolitanism can be traced back to the era of the Enlightenment with the arguments of philosophers like Immanuel Kant. In this section, my concern is only to introduce the logic of cosmopolitanism, rather than to suggest the different arguments of philosophers. The second section traces the idea of international justice in the logic of cosmopolitan theory. What, in other words, is the understanding of international justice which lies at the heart of cosmopolitanism? The third section attempts to bring out the idea of and relationship between the self and the other in this theory. Needless to say that cosmopolitanism does not offer a credible notion of the other which can be placed at the bottom of the theorizing justice. The chapter concludes by assessing the contributions of cosmopolitanism to the discourse on international justice.

For some time now, the theory of communitarianism has emerged as among the potent critiques and alternatives to the theory of liberalism. The arguments of communitarianism begin from a renewed conception of the self – the community, as opposed to the liberal conception of the individual self. Communitarianism, as suggested by Chris Brown, may also be understood as a basis for international political theory. What then is the underlying conception of international justice in the communitarian international political theory? This question constitutes the concern of the Fourth Chapter. The chapter begins with an introduction to the idea of communitarianism. Here, the focus is mainly on the arguments of Michael Sandel and Charles Taylor – two seminal communitarian thinkers. The second section goes on to assess the communitarian basis for international justice, whereby the

arguments of a community based politics is understood to inform the principles of justice for states. The third section reads through the conception of the self and the other which informs the communitarian understanding of international justice. The chapter concludes with an overall assessment of the communitarian conception of the relationship between the self and the other and its position within the theory of justice for states.

The Fifth Chapter is concerned with concluding the study. The chapter begins by reviewing the different conceptions of self/other relationships which characterize the dominant theories of international justice. In this way, the section recollects much of the arguments made in the study. The chapter concludes with the positing of an alternate conception of the self/other relationship which, according to me, could provide the basis for a possible theory of justice for states.

The study concludes that a system of states, in order to award space to justice, must be guided and governed by the politics of obligations and responsibilities: states must be obliged and responsible for the condition of each other, and must be held accountable for correcting any injustices which are historically and socially created and/or conveyed. The system of states we live in order to recognize the imperative of justice would have to be characterized as a social entity – an entity where on one hand, its members are tied together in relationships of affect and obligations and on the other, free to determine their choices and ends. The sovereign state system must be transformed or translated as a sovereign *social* state system.

Below I mention some of the characteristics of what I call a sovereign social state system:

1. The sovereign social state system, by recognizing its inherent and essential social nature would be rendered political, and thereby be understood as a relevant context and condition for justice. By merely situating sovereign states alongside each other, the place of the political is somewhat unclear. The social relationship between states, in addition to their sovereign nature, would enhance the political relationship between them. The sovereign *social* system would be a *political* system of states. For it was Aristotle that regarded the socialness of people to be the reason for their political nature.
2. The sovereign social system would recognize the historical, cultural and economic condition of each state as a cause of the social relationship among all states. The sovereign state system holds states responsible for their economic and historical location in the trajectory of development and progress, this when factors like colonialism, economic embargoes and blockades and military intervention have played a significant role in determining the location of a state in the path of development. A sovereign social system, by recognizing the socialness of states would recognize the factors responsible for the ‘underdevelopment’ and ‘backwardness’ of states, as well as recognize the imperative for holding the system responsible and obligated to addressing these inequalities. Justice in such a system would then not be a matter of aid, charity or choice; rather justice would be an obligation, a duty, a right which would could be enforced.
3. With the establishment of a sovereign social system, it would be possible if not practical to regard states as selves or others. With the sovereign state system today, each state is a self; there is no conception of the other. The sovereign social system would conceptualize states as selves and others. With such conceptualization, it would



be possible to raise the imperative of justice as well as consider valid the circumstances of justice.

4. A sovereign social state system would recognize justice as an essentially political value, such that it regards the benefits and burdens of the international system as open to redistribution among the member states. The sovereign state system, since it is devoid of a social basis, disregards the distribution of benefits and burdens as a legitimate issue and concern. However, once the state system is recognized as a social structure, it would be imperative if not prudent to legitimize the process and arrive at principles for redistributing benefits and burdens of social conflict and cooperation.
5. A sovereign social state system would not be obliged only to recognize civil and political rights as enforceable and justiciable; by virtue of its socialness and essential social character, it would also be obliged to recognize social, economic and cultural rights as legal and enforceable. A world devoid of social and economic justice is truly not a humane world.

To sum up, a sovereign social state system would be one in which states are not seen to be living in isolation from each other; where the injustices that one state confront are equally a challenge for other states; where the social nature of the state system introduces a notion of the political; where the relationship among states is considered as a concern for justice.

My study is an attempt to examine and conceptualize the possibility of arriving at justice for states – at principles of international justice. While I may not have worked out the principles of justice per se, I hope that my study has indicated a prerequisite for such an attempt. In doing so, I hope to have contributed meaningfully to the ongoing discourse on international

justice. Also, I hope to have opened up a possibility for future research in the area of international justice.

The world we live in is characterized by gross and unjust inequalities, most of which are constructed consciously by political, social and economic intent. And among the concerns of contemporary political research is the need to address these unjust inequalities. Paramount among such inequalities is those that characterize the international realm – the relationship among states. Undeniably, the relation and politics among states does deeply impinge and impact on the lives that we live as ordinary citizens. This study is just a miniscule attempt to begin to address the problem of international justice in order to correct and rectify some of the related injustices we experience in our every day lives.

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