

CHAPTER 1

The Grounds of Justice

1. When Thomas Hobbes devoted *De Cive* to exploring the rights of the state and the duties of its subjects, he set the stage for the next three and a half centuries of political philosophy. Focusing on the confrontation between individual and state meant focusing on a person's relationship not to particular rulers but to an enduring institution that made exclusive claims to the exercise of certain powers within a domain. Almost two centuries after Hobbes, Hegel took it for granted that political theory was merely an effort to comprehend the state as an inherently rational entity. And 150 years later, the American philosopher Robert Nozick could write that the "fundamental question of political philosophy is whether there should be any state at all" (1974, 4).¹

Two central philosophical questions arise about the state: whether its existence can be justified to its citizens to begin with, and what is a just distribution of goods within it. As far as the first question is concerned, philosophers from Hobbes onward have focused on rebutting the philosophical anarchist, who rejects the concentrated power of the state as illegitimate. For both sides of the debate, however, the presumption has been that those to whom state power had to be justified were those living within its frontiers. The question of justice, too, has been much on the agenda since Hobbes, but it gained centrality in the last fifty years, in part because of the rejuvenating effect of John Rawls's 1971 *A Theory of Justice*. Again, the focus was domestic, at least initially.

However, real-world changes, grouped together under the label "globalization," have in recent decades forced philosophers to broaden their focus. In a world in which goods and people cross borders routinely, philosophers have had to consider whether the existence of state power can be justified not just to people living within a given state but also to people excluded from it (e.g., by border controls). At a time when states share the world stage with a network of treaties and global institutions, philosophers have had to consider not just whether the state can be justified to those living under it but whether the whole global order of multiple states and global institutions can be justified to those living under it. And in a world in which the most salient inequalities are not within states but among them, philosophers have had to broaden their focus for justice, too, asking not only what counts as a just distribution within the state but also what counts as a just distribution globally.

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My focus in this book is on the last of these new problems, although what I have to say will be relevant to the other two new problems as well. I consider the question of what it is for a distribution to be just globally and offer a new reply: a new systematic theory of global justice, one that develops a view I call *pluralist internationalism*. Up to now, philosophers have tended to respond to the problem of global justice in one of two ways. One way is to say that the old focus on justice within the state was, in fact, correct. The only distributions that can be just or unjust, strictly speaking, are within the state. The other response is to say, by contrast, that the old focus on justice within the state was completely wrong. The only relevant population for justice is global. Leading theories of justice within the state, such as Rawls's, should simply be applied straightforwardly to all of humanity. This usually yields the result that global distributions are radically unjust.

This book defends a view between those two, one that improves on both. I agree with the second view that we *can* talk about global justice, that global distributions are just or unjust. But I agree with the first view that nonetheless, the state has a special place in accounts of justice. Domestic justice—justice within the state—and global justice have different standards, and the former are more egalitarian. Theories of domestic justice like Rawls's cannot simply be transferred to the global scene. That means that the global distribution of various goods is not as radically unjust as it would be if domestic justice did apply straightforwardly. Nonetheless, global distributions turn out to be unjust in various important ways.

I defend my view by developing a pluralist approach to what I call the *grounds* of justice. These, roughly, are the reasons why claims of justice apply to a certain population. Some grounds apply only among those who share a state, while others apply universally or almost so. Some—membership in a state, common humanity—have been explored before, though I hope to show that they should be understood in new ways. But other grounds—common ownership of the earth, membership in the global order, subjection to the global trading system—have not been explored in this context before, and I hope to show they have a substantial contribution to make. From a plurality of grounds of justice we get a plurality of principles of justice—again, some of which apply only within the state and some of which apply globally or almost so. We also get a host of real-world applications, to matters as diverse as illegal immigration, climate change, the global regulation of trade, and the provision of essential drugs. The British philosopher Bernard Williams once said of contemporary moral philosophy that it had “found an original way of being boring, which is by not discussing moral issues at all” (Williams 1993, xvii). Political philosophy too is susceptible to such a problem, but I hope the

wide range of concrete applications in this book will prevent it from sharing this fate.

Inquiries into global justice differ from those into international justice by not limiting inquiry to what states should do. They question the system of states itself, and assess alternative arrangements. We must broaden our view about what is involved in justifying states, and we must adopt a broader perspective on the scope of justice. In the rest of this book, I investigate these grounds one by one, exploring the principles they generate. At the end, I consider the implications of the resulting list of principles for institutions. I return to the state, and also consider—as an example of what can be said about a global institution—the World Trade Organization (WTO). This allows me to return as well to the two other new problems described above that globalization has raised for political philosophy, the problem of justifying the state to outsiders and the problem of justifying the global order to all. In the remainder of this chapter, though, I will set the stage for the rest of the book by making what I have said so far more precise.

2. Let me start by saying a bit more about globalization. *Globalization* denotes processes that erode the political and economic importance of national boundaries and increasingly affect life chances through the system of rules that constitutes the global order. Globalization is actually not new. It traces back to developments that began in the fifteenth century through the spread of European control, continuing with the formation of new states through independence or decolonization. In 1795, Kant could write that the “community of the nations of the earth has now gone so far that a violation of right on one place of the earth is felt in all” (*Perpetual Peace*, 1970b, 330). Political philosophers of the seventeenth and eighteenth centuries, such as Hugo Grotius, Christian Wolff, Samuel Pufendorf, John Locke, Emmerich Vattel, or Immanuel Kant, explored questions about *that* stage of globalization. They developed the doctrine of sovereignty, explored under what conditions one could acquire non-European territories, and debated what kind of ownership there could be of the seas.

The “major fact about the 19th century is the creation of a single global economy,” writes the historian Eric Hobsbawm, “an increasingly dense web of economic transactions, communications and movements of goods, money and people” (1989, 62). The creation of this economy reflected the spread of European control. By the end of the nineteenth century, political philosophers such as Alexis de Tocqueville and John Stuart Mill were busy justifying why non-Europeans should endure political dependence. A period of devising rules for the spread of empire gave way to a period of justifying its persistence. After World War II, “global governance” came

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into its own, and talk about a “global (political and economic) order” and an “increasingly interconnected world” has become commonplace and appropriate.

While this global order has no government, it comprises treaty- and convention-based norms regulating territorial sovereignty, security and trade, some property rights, human rights, and the environment. Politically, the UN Charter codifies the most significant rules governing this system. Economically, the Bretton Woods institutions—the International Monetary Fund, the World Bank, and later the General Agreement on Tariffs and Trade and the WTO—form a network intended to prevent war and foster worldwide betterment. Jointly with more powerful states, these institutions shape the economic order. At *this* stage of globalization philosophers must worry about the normative issues that such governance raises.

These developments in the world have prompted changes in the concerns of political philosophers, in particular, a new interest in global distributive justice. So let me turn to saying something in general about how I understand distributive justice. In what follows, “justice” means “distributive justice” unless otherwise specified. (It is a controversial matter what other kinds of justice there are.) Distributive justice determines what counts as an acceptable distribution of holdings. Principles of distributive justice are propositions in the first instance about the distribution of some good in some population. They take this form: “The distribution of good G in population P is just only if...” These principles entail further propositions about duties (for agents and institutions) and claims (of individuals). The principle says “only if”—the right-hand side states a necessary condition of the distribution on the left-hand side being just, not a sufficient condition. This leaves space open for there being multiple principles of justice: there could be more than one principle even for the same good and the same population.

A theory of distributive justice explains why certain individuals have particularly stringent claims to certain relative or absolute shares, quantities, or amounts of something. The relevant population for a principle of justice usually consists of individuals living at a given time, but it need not. To use some examples that will be relevant later in the book, it can be a population of states or one of different generations. Two especially important populations in what follows are the population of all humanity, the whole population living on earth (at present, those two groups happen to be identical), and the population within a particular state. I sometimes talk about the “scope of, or associated with, a principle” to mean the relevant population for that principle.

Whatever it is whose distribution is at stake is the *distribuendum*, *metric*, or *currency* of justice. The relevant goods for a principle of justice are

potentially heterogeneous and range from quite concrete things (material goods) to quite abstract things (primary goods, legal rights) and even (potentially) subjective states (satisfaction, happiness). It can be controversial whether something is an appropriate candidate to be a good whose distribution is a matter of justice, but facing that controversy is part of the job of someone defending a specific principle of justice. Principles of justice need not specify an exactly equal distribution. Few that have been seriously defended do. But they can be more or less egalitarian. A paradigmatic example of an egalitarian principle is Rawls's "difference principle," which says (roughly) that the distribution of goods within a population is just only if any differences in holdings benefit the worst-off.

Principles of justice have *grounds*. The grounds are those considerations or conditions based on which individuals are in the scope of principles. We may think of this in two (roughly equivalent) ways. First, these are the features of the population (exclusively held) that make it the case that the principle of justice holds. Second, these are a set of premises that entail the principle of justice. These premises can be partly normative. Grounds can support more than one principle, but these will have the same population. Grounds are features of populations, and a vague ground may correspond to a vague population. Different grounds can support principles that apply to the same population. The same principle could be supported by different grounds. Principles of justice trivially entail stringent claims. Every member of the relevant population has a stringent claim to whatever its share of the relevant good would be if the distribution was just. Principles, distribuenda, grounds, and scopes must form a coherent theory. I will say that they are respectively *associated* with each other.²

Principles of justice also trivially entail "obligations, or duties, of justice" for somebody. ("Obligation" and "duty" I use interchangeably.) For each principle there is some individual or institution or other agent that has an obligation to do what it can, within limits, to bring about that sort of just distribution—that is, to bring it about that the relevant stringent claims are satisfied. Exactly which agents have this obligation for which principles, though, is a matter to be settled in particular theories of justice. It is a controversial matter whether the obligations that follow from principles of distributive justice are the only "obligations of justice" there are (just as it is controversial what other kinds of justice there are). It is commonly agreed, though, that obligations of justice are not the only sorts of *moral* obligation, and that among moral obligations, obligations of justice are especially stringent.

Alan Ryan (1993) reminds us that in Shakespeare's *Merchant of Venice*, Shylock makes his demand for a pound of his delinquent debtor's flesh in terms of justice, and until the clever Portia finds a device for voiding the contract, the presumption is that it must be granted. Demands of

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justice are the hardest to overrule or suspend. Kant goes too far insisting there is no point for human beings to continue to live on earth unless justice prevails. Still, justice plays its central role in human affairs because it enables persons to present claims of such stringency.³ “We can’t leave it to insurance companies to deliver justice,” J. M. Coetzee has the protagonist of his novel *Disgrace* say (2000, 137). This is amusing precisely because of the stringency of justice. We speak about justice in the family, at the workplace, or in competitions. There is justice as a personal virtue, a constitution of character or disposition to help ensure others have, or are, what they should have or be. Domestic distributive justice is also often called *social justice*.

Those are the central concepts of justice. Here are some other concepts that in due course will play a role in this book. There is a demand of reasonable conduct on person P to perform action A if and only if it would be unreasonable for P not to do A, and if and only if P can reasonably be expected to do A. If P has a duty of justice to do A, then there is a demand of reasonable conduct that P do A, but not vice versa. Demands of reasonable conduct can be less stringent than duties of justice. I will mostly be interested in cases in which there are demands of reasonable conduct without corresponding obligations of justice. In such cases I talk of “mere” demands of reasonable conduct. Moreover, a person has a moral right to X if and only if someone else has a moral obligation to let that person have X. We can distinguish moral rights from positive rights (e.g., legal rights, conventional rights, etc.). It is a matter of empirical research what legal rights someone in a given country has, say. It is a matter of philosophical inquiry what moral rights someone has. Positive rights can enter theories of justice as goods to be distributed; moral rights can enter as part of the grounds of a principle of justice.⁴

3. Reflection on global justice has become mandatory not only because of globalization. Our understanding of domestic justice itself requires such reflection. Samuel Fleischacker (2004) argues that the modern conception of social justice incorporates several premises.⁵ First, each individual has a good that deserves respect: individuals are due rights and protections to that end. Justice is not (merely) a matter of realizing, say, a divine order.⁶ Second, some share of material goods is among the rights and protections everyone deserves. Third, what each person deserves is rationally and secularly justifiable. (“Where mystery begins, justice ends,” Edmund Burke once wrote [1982, sec. 53].) Fourth, the distribution of these goods is practical: it is neither a fool’s project nor self-undermining, like attempts to enforce friendship. Fifth, it is for the state (and conceivably other political entities) to achieve justice.

This conception captures commitments about how fates are tied and about the special claims and duties generated thereby that are strikingly unusual by historical standards. Instead of each individual having a good worthy of respect, as is often taken for granted now, only people of a certain race or status may demand respect for their good, whereas the good of others can allegedly be realized only through a relationship of inferiority. Instead of individuals being due certain rights, and instead of there being rational and secular justifications, as is now often assumed, justice may require of persons to occupy positions based on divine or natural law, or as otherwise determined by an ideology not subject to scrutiny. Governments may be accountable only to God, as the Psalmist's David recognized responsibility only to God for sending his beloved's husband to die (Psalm 51:4: "Against thee, thee only, have I sinned"). Instead of material goods being among the distribenda, only honors may be. Instead of there being efforts to achieve a certain distribution, that distribution may be considered an unalterable fact. Or there may be reasons not to do anything about it, such as divine grace, or a perception that intervention creates moral failings (say, because it conflicts with other values, e.g., liberty) or is practically undoable. Finally, instead of the state's being charged with maintaining a just distribution, the task may be left, say, to churches.

But if each individual has a good deserving of respect, we must ask whether corresponding duties expire at borders. If material goods are among the rights and protections everyone deserves, we must ask whether this depends on where people live. If rights require rational justification, we must ask whether such justification is available only for principles that hold within the state. Plausibly, entities other than states too ought to strive for justice. In his *Enquiry Concerning Human Understanding*, Hume has Epicurus ask those who believe in a provident God, "Are there marks of a distributive justice in the world?" (1975, 141). Suitable secularized and modernized versions of this question must now indeed be raised about the world, not merely about a state. Assuming that Fleischacker's analysis of our modern conception of social justice is correct, as I think it is, we can see how this conception points beyond itself: it naturally leads to an inquiry into global justice.

4. Distributive Justice is the genus of which relationism and nonrelationism are species. Relationists and nonrelationists disagree about the grounds of justice. "Relationists" think principles of justice hold only among persons who stand in some essentially practice-mediated relation. "Nonrelationists" think all principles of justice apply among all human beings regardless of what relations they share. A reference to practices keeps

nonrelationism from collapsing into relationism. The relation of “being within 100,000 kilometers of each other” is not essentially practice-mediated, nor is, more relevantly, that of “being a fellow human.” I talk about “essentially” practice-mediated relations since there may be practices associated especially with this latter relation that are dispensable to understanding its content.⁷

Relationists may hold a range of views about the nature of the relevant relations, and they may think there is only one relational ground or several. Relationists are motivated by concerns about “relevance,” the moral relevance of practices in which certain individuals stand. Such practices may include not only those that individuals chose to adopt but also some in which they have never chosen to participate. Globalists think there is only one relevant relation, and that relation holds among all human beings in virtue of there being a global order. (To remember its relationist meaning, readers should connote this term with global order rather than with globe.) Statists, too, think there is only one relevant relation, and think that relation holds (only) among individuals who share membership in a state.

Globalists may well concede there used to be a relevant difference between state and global order but assert there no longer is. Whatever relations are supposed to be so important among the people sharing a state that they ground principles of justice now exist among the whole population of the earth (or perhaps most of it, those living isolated from the modern world excepted). Since the relevant relation-sharing community has now expanded, principles of justice apply only globally (or almost globally). All relationists owe an account of why relations should be all-important for the applicability of justice. Globalists owe an account of what it is (exclusively) about involvement with the global order that generates demands of justice. Similarly, statists owe an account of what it is (exclusively) about shared membership in states that does so.

Statists and globalists disagree about ground and scope but agree that there is only one ground, and that it is relational. Relationists may also agree about the scope and agree that there is only one ground while disagreeing about that ground. In chapter 3 we encounter *coercion-based* and *cooperation-based* statists. Both think the people who respectively stand in the justice relationship are those who share a state. They disagree about whether it is in virtue of cooperative or coercive practices that justice applies. What is distinctive of a ground is the account of the conditions and considerations that are norm-generating. Those who think cooperative practices are crucial to shared membership in a state have a different view of the grounds than those who think coercive practices are. It should be noted that globalism is a view about *grounds*, not about the

scope that is consistent with a nonrelationist ground. Talk about “nonrelationist globalism” is oxymoronic.

Nonrelationists deny that the truth about justice depends on relations. They think principles of justice depend on features that are shared by all members of the global population, independent of whatever relations they happen to be in. Rather than focusing on relevance, nonrelationists seek to avoid the “arbitrariness” of restricting justice to regulating practices. Globalization may have drawn our attention to the fact that justice applies globally, but in fact it always did. The versions of nonrelationism seriously defended in the literature take the scope of justice to be global, including all of (and only) humanity. But nonrelationists could in theory determine the scope differently. One could limit justice to a subset of humanity by insisting on the normative importance of sex or race. Or one could insist that justice must have all sentient beings in its scope, at least higher animals and conceivably rational Martians.⁸

Nonrelationists (of the mainstream sort) owe us an account of what it is that members of the global population have in common—if not some relations—that make it the case that principles of justice apply to the global population. “Common humanity” is an obvious possible answer, but there could be others. Commonly, nonrelationism is defended as a view committed to one ground, but there could be several. For nonrelationists for whom common humanity is the only ground, justice is a property of the distribution of advantage, broadly understood. While for relationists, individuals stand in the justice relationship if they have special claims within particular practices, for this kind of nonrelationist that relationship is distinguished by the absence of special claims.

One term I have little use for is “cosmopolitanism.” According to a well-known definition, cosmopolitanism consists of three positions:

First, individualism: the ultimate unit of concern are human beings, or persons.... Second, universality: the status of ultimate unit of concern attaches to every living human being equally—not merely to some sub-set, such as men, aristocrats, Aryans, whites, or Muslims. Third, generality: this special status has global force. (Pogge 1994, 89)

None of the views I discuss in this chapter denies moral equality among persons; each has capacities to make sense of individualism, universality, and generality. What is crucial is how rich a notion of moral equality one should endorse and how it relates to political and distributional equality. It is in this regard that those views disagree with each other and with my own view, which I introduce in section 5. One response is to use different notions of cosmopolitanism, perhaps distinguishing weaker from stronger

versions. Another is to stop using that term in debates about distributive justice. This second response strikes me as the right one. While the term is suitable to describe a love of humanity or the evanescence or fluidity of culture, it has outlived its usefulness for matters of distributive justice. We have learned the basic cosmopolitan lesson: moral equality is an essential part of any credible theory of global justice. We live on a “cosmopolitan plateau.” But we should conduct the philosophical debate about global justice in the terms discussed in this chapter.⁹

5. Qua relationists, statists and globalists oppose nonrelationism. At the same time, globalists and nonrelationists oppose statism in a significant way. The state is “normatively peculiar” (from a standpoint of justice) if and only if there are some principles of justice that apply only within states. Statists endorse the normative peculiarity of states; globalists and nonrelationists reject it. Disagreements among statism, globalism, and nonrelationism notwithstanding, they all assume a single justice relationship. (Or, that is, statism, globalism, and the common versions of nonrelationism do.) Alternatively, one may deny that all principles of justice have the same scope and the same ground. That is what *internationalism* does, the view I defend in this book.

Internationalism shares with statism a commitment to the normative peculiarity of the state. Internationalism also holds that nothing as egalitarian or demanding as Rawls’s account of justice (see below) applies outside of states, though it does apply inside the state. At the same time, internationalism accommodates multiple grounds, some of which are relational and some not. Therefore, I also talk about “pluralist internationalism.” Internationalism agrees with globalism that the global order generates its own principles of justice and with nonrelationism that not all grounds are relational and that common humanity is a ground. But the principles thus generated are much weaker than those that apply within states. Using the term “internationalism” for my view is apt because it recognizes the applicability of principles of distributive justice *outside* and *among* (“inter”) states. Internationalism’s inherent pluralism transcends the distinction between relationism and nonrelationism, formulating a view “between” the two common views that principles of justice either apply only within states (as statists think) or else apply to all human beings (as globalists and nonrelationists think).¹⁰

My defense of pluralist internationalism in this book accepts a two-fold challenge: first, to show why statism, globalism, and nonrelationism are insufficient and why a view combining relational and nonrelational grounds is promising; and second, to illustrate the fruitfulness of my view by assessing constructively what principles are associated with different

grounds. Altogether I explore five grounds. I recognize individuals as human beings, members of states, co-owners of the earth, as subject to the global order, and as subject to a global trading system. For common humanity, the *distribuendum* is the range of things to which a certain set of natural rights entitles us; for shared membership in a state, it is Rawlsian primary goods; for common ownership of the earth, it is the resources and spaces of the earth; for membership in the global order, it is again the range of things to which a set of rights generates entitlements; and for subjection to the global trading system, it is gains from trade.

For concreteness, I assume that the principles of domestic justice are something like Rawls's principles. For our purpose it suffices to establish that especially demanding, egalitarian principles hold domestically. But I do explore how domestic justice must integrate principles associated with other grounds. For each ground we must demonstrate "distributive relevance": we must show that principles of the form "The distribution of good G in population P is just only if ..." hold within certain populations. The burden of proof is on those who wish to introduce additional grounds. Nonetheless, I do not claim that I have identified all grounds: membership in the European Union is a contender, or more generally, different forms of membership in transnational entities. Certain grounds stand out because human affairs render them salient before the background of political realities and philosophical sensitivities. "Social justice" demarcates the relevance of membership. "Global justice" demarcates the salience of not one but several grounds: those mentioned and possibly others for which one must argue.¹¹

One might worry that my approach brings under the purview of "distributive justice" much that may fit under justice, but not *distributive* justice. Indeed, internationalists do not say, for instance, that "'humanity' ought to come before justice in the determination of social and political priorities" (Campbell 1974, 4). Common humanity does not stand in contrast to justice but is one ground. Thereby my view acknowledges an important truth in nonrelationism. The issues that I claim fall under distributive justice are tied. The connection is that all grounds bear on the distribution of *something* that is both significant for individuals and salient at the political level, and that all claims based on different grounds place stringent demands on states and other agents. It is possible to think of humanitarian duties as opposed to justice for a narrowly conceived notion of justice. However, there is pressure to think of these duties as stringent, which renders this contrast unconvincing. Internationalism contrasts humanitarian with *other* duties of justice. There does remain some awkwardness in thinking of all the issues in this book in terms of distributive justice. Nonetheless, on balance, there is good reason to do so.

Another worry is that, at its core, distributive justice concerns material goods and opportunities: extending the term to include all the *distribuenda* that I just mentioned my account recognizes for different principles makes justice too amorphous. However, it is impossible to theorize about justice while embracing that intuition. Reflection creates pressure to take a more abstract standpoint to obtain a coherent and plausible approach. Recent theories of justice use abstract *distribuenda*, to make plausible that any two individuals ought to have an equal share of them, including opportunities, well-being, social bases of self-respect, or expectations for life trajectories. Some *distribuenda* are not the sort of thing one can *distribute*. One can affect their distribution only indirectly.

Reflection on statism, globalism, nonrelationism, internationalism, and perhaps other positions that one might want to formulate about the grounds of justice becomes especially urgent once we confront a broader spectrum of alternatives to states than those that lack coercive institutions and therefore are at issue with anarchists. That spectrum includes societies with coercive institutions other than states or governments. Of interest are not primarily political organizations that predate states, such as city-states, city leagues, empires, or feudal structures. Instead, of interest are a world state, a world with federative structures stronger than the UN, one with a more comprehensive system of collective security, one where jurisdictions are disaggregated, or one where border control is collectively administered or abandoned entirely. Reflection on such structures matters greatly in an interconnected world where enormous differences in life prospects persist.¹²

6. John Rawls is an interlocutor throughout, second only to Hugo Grotius, whose work I discuss in chapter 5. I introduce parts of Rawls's theory throughout (especially in chapters 2 and 3) as needed. Let me say a bit about his approach, and about how mine differs from his. At the core of Rawls's theory is a proposal for two principles of domestic justice (e.g., Rawls 2001, 42):

1. Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all.
2. Social and economic inequalities are to be arranged so that they are both (a) attached to offices and positions open to all under conditions of fair equality of opportunity and (b) to the greatest benefit of the least advantaged.

The second part of the second principle is the *difference principle*. Priority is given to the first principle, and within the second to the first clause.

Conflicts between the principles are decided in favor of the first. Conflicts between the two parts of the second principle are resolved in favor of the first part. The distribuenda presupposed by these principles are what Rawls calls the social primary goods: basic rights and liberties, freedom of movement and free choice of occupation against a background of diverse opportunities, powers and prerogatives of offices and positions of authority and responsibility, income and wealth, and the social bases of self-respect (Rawls 2001, 58–59).

The rights captured by the first principle are political and civil rights: freedom of thought and liberty of conscience; political liberties (e.g., rights to vote and to participate in politics) and freedom of association, as well as rights and liberties specified by the integrity (physical and psychological) of persons; and finally, rights and liberties covered by the rule of law (*ibid.*, 44). The second principle adds demanding conditions regarding socioeconomic inequalities. Fair equality of opportunity requires measures much beyond removing discrimination in the provision of access to offices and positions. What is required instead are arrangements that enable people to be healthy and well educated enough to be genuinely competitive, regardless of what segment of society they belong to. The difference principle then regulates the distribution of the remaining social primary goods. It asks us to compare feasible institutional arrangements that distribute these goods and to identify the respectively least advantaged. We should choose that arrangement that makes its least advantaged better off than the respectively least advantaged are under any other arrangement. Rawls assumes this condition will work out favorably for everybody in society, so that remaining differences in primary goods do indeed benefit everybody.

These principles do not regulate all aspects of people's lives. They regulate the *basic structure* of society and apply only to people who share such a structure. The basic structure is the way in which the major social institutions fit together into one system and how they assign fundamental rights and duties and shape the division of advantages from cooperation. Institutions that constitute this structure include the political constitution, the different forms of property, the legal system of trials and other legal procedures, the organization of the economy (norms enabling the production, exchange, and consumption of goods), and also the nature of the family (Rawls 1999c, 6–7; 2001, secs. 4, 15, 16).

Among those who share a basic structure, then, the principles of justice respond to the question of how to distribute social primary goods. Rawls uses a social contract argument to approach this question. The traditional form of this argument envisages a state of nature in which individuals live together before there is political authority. The answer to the question of what contract they would agree to is supposed to determine the scope and limits of justified state power. Since few such contracts have

been made, and since it will be no longer binding on the living even where one was made in the past, one may think about a hypothetical contract instead. But Rawls does not employ an argument of either form. His “aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract found, say, in Locke, Rousseau, and Kant” (1999c, 10).

This generalization involves an expository device Rawls calls the “original position.” In the original position, people are behind a “veil of ignorance,” so that

no one knows his place in society, his class position or social status, nor does any one know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conception of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain. (1999c, 11)

The original position models the idea of equality among participants. This device captures reasonable limitations on arguments they can make in support of principles of justice. Individuals can enter the original position any time by accepting these constraints. Based on reasoning that we explore in more detail in chapter 2, Rawls concludes that, given these reasonable limitations, participants would choose his principles.

Rawls is a relationist, and specifically a statist. He famously calls justice “the first virtue of institutions, as truth is of systems of thought,” and talks about “justice in social cooperation” (1999c, 3).¹³ “Distributive justice,” says his expositor Samuel Freeman (2007a) by way of highlighting Rawls’s relationism, “poses the general problem of fairly designing the system of basic legal institutions and social norms that make production, exchange, distribution, and consumption possible among free and equal persons” (305–6). Many aspects of advantage and its distribution are natural facts. But “what is just and unjust,” says Rawls (1999c, 87), are not these facts but instead “the way that institutions deal with these facts.”

Rawls’s relationism also bears on his choice of *distribuendum*. Let me briefly explain this point, both as a way of expounding Rawls’s approach and to illustrate the reach of the distinction between relationism and non-relationism. Rawls’s *Theory* itself provides little argument for primary goods over other currencies.¹⁴ To show how primary goods, or something like them, become inevitable as currency, I introduce a *publicity constraint* that excludes subjective *distribuenda*.¹⁵ Since citizens encounter conflicts

of interest, they need a currency they can regulate with reasonable effectiveness and can verify with some certainty and without information depending on declarations of or intrusions upon persons. Since free and equal citizens take themselves to be judges of the extent to which their pursuit of the good succeeds, public deliberation *ought* not to assess subjective welfare. Since one cannot expect others to take one's word for the relevant data, dissenters either must intrude upon a citizen's mental life or decide her satisfaction for her. Neither is acceptable.¹⁶

There are objective distribuenda other than primary goods, including Ronald Dworkin's "resources" or Amartya Sen's "capabilities." But for citizens to support policies in a suitably informed way, the basic structure must be regulated in terms of a currency they can use in deliberations. Currencies that are too abstract or complex fail that test, so we need a guidance constraint on the choice of distribuenda. These two constraints are plausible within Rawls's theory because his principles regulate practices, membership in a state. These constraints lead toward primary goods. It is hard to see how to support primary goods over competitors if these criteria are unavailable. Nonrelationists may grant that such criteria matter practically. But they object to their bearing on the determination of what principles of justice are, and to distribuenda that lack plausibility without these criteria. Rawls's relationism is critical for his choice of primary goods as distribuenda.¹⁷

7. Let me explain how pluralist internationalism relates to Rawls's view. Rawls's main subject is domestic justice. His later *The Law of Peoples* (Rawls 1999b) adds an approach to international justice by way of sketching the foreign policy of a society that applies his principles (or something like them). Relationists like Rawls can recognize duties to those with whom one does not share the relevant relation, such as membership in a given state. But those duties could not be duties to realize the principle that arises from *that* ground (in the example, principles applying within that state). They could be duties of some kind *other* than duties of justice; or they could be duties of some kind of *justice* other than distributive justice.

Thomas Nagel (2005) adopts the former approach. A statist like Rawls, Nagel insists that principles of justice hold only within states. In *The Law of Peoples*, Rawls adopts the latter approach. Rawls implicitly acknowledges a distinction between duties of *distributive* justice held within states and duties of justice that may hold otherwise. The duty of assistance to "burdened societies" that Rawls recognizes is not one of *distributive* justice (1999b, 106, 113–20). Duties of distributive justice concern shares in a system of economic production and exchange, which Rawls thinks presupposes a basic structure.¹⁸

Rawls never asks how to justify states to outsiders. Nor does he explore what distinguishes states from other structures. *A Theory of Justice* took for granted that political philosophy had mostly solved the problem of justifying the state to the anarchist. What was left to do was primarily to develop an account of justice. But the state has since become problematic in ways in which it never was for Rawls. It is to that state of affairs that my book reacts. Unlike Rawls's, my concern is not primarily with domestic principles of justice but with arguments that set the stage for their selection and with considerations about the place of the state in a politically and economically interconnected world that constrain their formulation. I inquire about the state in global perspective.

For concreteness, I assume that something like Rawls's principles holds domestically (primary goods being the distribendum). I accept "something like Rawls's principles" because perhaps we should permit less inequality than Rawls allows (Barry 2005), or more (Nagel 1997). One may take the first stance, for example, if one thinks inequality (of some sort) is problematic as such. One may take the latter stance, for instance, if one thinks it matters more than Rawls allows how inequalities have arisen. Rawls regarded his principles as one form of a credible liberal egalitarianism, other forms of which may allow for more inequality. However, a complete formulation of principles that apply to the state must be longer, and must correspond to a broader range of duties at the global level, than Rawls allows. The main challenge for my pluralist internationalism is to make good on that claim.

Rawls's approach to justice is motivated by his philosophical method. He begins with domestic justice and works "outward" from there to the Law of Peoples, and "inward" to local associational justice (2001, 11). Domestic justice is presupposed by the other subjects. As Freeman (2007a) says:

The principles that appropriately regulate social and political relations depend upon the kinds of institutions or practices to be regulated, and these principles are to be "constructed" on the basis of ideas that are central to the functioning of those institutions or practices and people's awareness of them. (270)

This approach has been called "political constructivism." Freeman plausibly sees it as integral to Rawls's rejection of global principles of distributive justice. The convictions and intuitions that must be in reflective equilibrium (to use a term I spell out in chapter 2) to obtain a theory of justice concern the practices and institutions within which we lead our lives. These convictions are less developed outside the domestic setting.¹⁹

Indeed, we must take as given a global political order whose principal subdivisions consist of units roughly like the current state, but be open to

the possibility that the best justification for doing so requires (possibly considerable) modifications in the norms of the system as we find them. We cannot pretend to be able to invent a global order from scratch (a thought that chapters 15 and 16 develop in detail). After starting with the state, we can ask what is normatively peculiar about it, and whether there ought to be states, as well as bring into focus the state's duties to those outside it. But we do not therefore need to agree with Rawls that there are principles of distributive justice that apply domestically and must be articulated first, and that then there may well be other principles of justice (not distributive justice) that apply globally. Contrary to Rawls—and this is the major difference between his approach and mine—I argue that states are subject to principles of distributive justice also on account of the other considerations reflected in the grounds-of-justice approach, and that there are several grounds of justice, of which some are relational and some are nonrelational.

What is perhaps most distinctive about my approach is the significance I give to humanity's collective ownership of the earth, inspired by the work of the seventeenth-century Dutch jurist and philosopher Hugo Grotius. Inquiring about ownership of the earth offers insights into immigration, obligations to future generations, obligations arising from climate change, and even human rights. In this respect my approach differs from Rawls's, but also from just about all other major contemporary theories of global distributive justice.²⁰

8. In a nutshell, I formulate a view of global justice “between” two standard views, that principles of justice either apply only within states or else apply to all human beings. There are different principles with different relevant populations (scopes) and grounds of different types. The chapters in part 1 primarily discuss the state, and thus shared membership in a state as a ground of justice, but that discussion also includes an account of common humanity as a ground (chapters 2–4). Then part 2 explores humanity's collective ownership of the earth (chapters 5–10). In part 3 I turn to international structures, the global order and the international trade regime (chapters 11–14). Finally, I explore two remaining questions that arise from my view, both pertaining to institutions. First, I assess whether there ought to be a system of multiple states to begin with, and second, I explore how the state's various obligations to bring about a just world mesh together, and start doing the same for global institutions (part 4, chapters 15–18).

Throughout, I successively develop a theory of human rights, to the extent required to explain how such a theory fits into a theory of global justice. I fall short of offering a complete list of human rights. Chapter 4

introduces a conception of human rights as rights that persons have in virtue of the distinctively human life. Chapter 7 begins work toward another conception that understands such rights as membership rights in the global order. Collective ownership of the earth is one source of such rights. Chapter 11 continues the work on this conception and integrates the distinctively human life as another source of rights. The conception from chapter 4 will therefore be fully integrated into the conception of human rights as membership rights in the global order, the conception I propose in this book. Chapters 12 and 13 explore how my conception makes sense of certain human rights.

Let me summarize chapter by chapter. In part 1, chapter 2 characterizes shared membership in a state as a ground and explores how this characterization bears on the selection of domestic principles of justice. Chapter 3 elaborates on differences between and among my pluralist view, statism, and globalism by looking at contemporary debates involving statism and globalism. Together, chapters 2 and 3 establish the state's normative peculiarity, and they also show that the principles of justice that hold in a state are especially demanding (broadly egalitarian) principles of justice. Chapter 4 explores what justice requires in virtue of common humanity and defends my pluralist view against a prominent version of nonrelationism. To that end, I develop a conception of human rights that individuals hold in virtue of being human. The grounds in part 1 are shared membership in a state and common humanity.

Part 2 explores collective ownership of the earth. Since this approach is now uncommon, chapter 5 explores how one of its protagonists, Hugo Grotius, put it to work. An even more important interlocutor than Rawls, Grotius is also a source of inspiration for my discussions of duties from climate change, in chapter 10, and of a human right to pharmaceuticals, in chapter 12. Chapter 6 systematically develops the idea that humanity collectively owns the earth, selecting a conception I call Common Ownership.²¹ Chapter 7 begins work on my conception of human rights as membership rights in the global order. Common Ownership is one source from which to derive such rights. Chapter 8 applies the ownership approach to immigration, arguing that states can reasonably be expected to allow immigration to the extent that they are underusing their share of three-dimensional space. Chapter 9 explores how Common Ownership illuminates duties toward future generations, and chapter 10 assesses the implications of Common Ownership for duties resulting from climate change.

Part 3 turns to international structures, discussing two remaining grounds, shared membership in the global order and shared subjection to the global trading system. Thinking of membership in the global order as a ground of justice acknowledges that the earth is covered by a system of

states and that there are international organizations that aim to be of global reach. World trade is highly structured and subject to numerous conventions. Involvement with the trading system too constitutes a ground. The trading system is part of that order. States too are parts of it. Nevertheless, particular principles of justice apply to them, and the same is true for the global trading system.

Chapter 11 continues to develop the account of human rights as membership rights in the global order. Part 3 includes two studies of how to apply this conception to questions of the sort, “Is there a human right to X?” (Chapter 7 also offers one such study, concerning the question of whether there is a human right to relocation for inhabitants of disappearing island nations.) Chapter 12 explores whether there is a human right to essential pharmaceuticals. Chapter 13 assesses whether labor rights are human rights. Exploring the fifth ground, chapter 14 discusses how justice applies to trading. Chapter 18, in part 4, completes the discussion of trade by assessing the WTO.

Parts 1–3 explore the different grounds. Taking internationalism as established, Part 4 addresses two remaining questions, both pertaining to institutions. My approach makes the normative peculiarity of states central, as well as the existence of a system of multiple states. But states exist only contingently. If it were morally desirable for the state system to cease to exist, then my theory of global justice could not offer us an ultimate ideal of justice. That ideal would be offered by a vision of the political arrangement that should replace the system of states. So we must explore whether it is true that morally there ought to be no system of states but instead there ought to be either no states or else a global state. Answering that question is also relevant to answering the two questions concerning justification posed earlier in chapter 1. If there ought to be no state system, then it cannot be justified to people subject to it.

Chapter 15 considers several arguments that find fault with the way we live now, the system of states. We explore four strategies one may deploy (a) to identify faults of the state system and (b) to use the identified moral failings to reach the conclusion that there ought to be no system of states, and thus no global order. Chapter 16 offers a sweeping objection to any attempt to argue toward the conclusion that the state system ought to cease to exist. There remains a nagging doubt about whether there ought to be states at all; nevertheless, morally and not merely pragmatically speaking, we ought not abandon states now, nor ought we aspire to do so eventually.

Chapters 17 and 18 explore a question that we also encounter at several points throughout the book: what obligations do various institutions have to bring about a just world? In chapter 17 I focus on the state, drawing together the threads of my discussion and asking how the various

obligations on the state to bring about a just world mesh together. In chapter 18 I begin the task of doing the same for global institutions by focusing on one, the WTO. In addition to questions of justice, we also encounter questions of accountability.

Let me add two caveats. First, the grounds-of-justice approach offers a comprehensive view of obligations of distributive justice. This involves a fair amount of categorization. This categorization will often be somewhat artificial, and in many cases the material of this book could have been organized differently. Obligations of justice at the global level are often overdetermined and can be captured in various ways. Second, by virtue of its pluralism, internationalism triggers the question of how to think about situations where principles derived from different grounds conflict. The structure of this book obscures the significance of this question since I more or less look at one ground at a time. Only in chapter 17 do we directly face the question of how to combine principles associated with different grounds. There I make a proposal for how to rank-order the different principles stating obligations of justice as they apply to the state. That list is an expansion of Rawls's principles. The rank-ordering will be controversial and will not be readily accessible to conclusive argumentation that would rule out alternative orderings. That, however, is in the nature of a genuinely pluralist theory.