

International tax policy

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Lecture 7

- ‘Human beings have differed greatly in the accounts they have given of the concept of ‘justice’...But they have always agreed on a number of basic points. The first is that justice is essential to human conviviality; second, that justice is not merely a matter concerning the relations between one individual and another...It also implies duties of the individual towards the community...to which they belong...Third, the concept of justice is logically connected with the concepts of ‘equality’ and ‘proportion’” (Agius)

Paper Outline

- global justice as a (meta-) or universal principle
- differing conceptions of justice
- global justice and environmental fairness
- three levels of indeterminacy:
 - indeterminacy of scope
 - indeterminacy of content
 - justice at the global level?
- concluding comments

Meta-principles

- widely applicable & have all-encompassing conceptual breadth
- high degree of indeterminacy
- “contestable concept” (Jacobs)
 - ‘Contestable concepts are complex and normative, and they have two levels of ‘meaning’. The first level is unitary but vague; it can often be expressed in a short definition...Often there will be a number of such definitions available; but neither this nor their vagueness makes such concepts meaningless or useless’

- ‘For common political concepts, the battle is neither over the first level of meaning nor indeed whether one accepts the normative goal. Almost everyone is in favour of democracy, liberty, and social justice; the debate is over alternative conceptions of what they mean, at the second level’
- open-textured nature of principles *potentially* promotes dynamism in political discourse
- cf. universal principles are not “divine” singular truths, but ideas that are there to guide and influence the political and, ultimately , normative debate

Differing conceptions of justice

- justice as utilitarianism
- justice as liberal egalitarianism (Rawls)
- justice as property rights
- justice as mutual advantage
- communitarian justice
- justice as meeting needs (“pro-poor” approach)

- “Whether justice as fairness can be extended to a general political conception for different kinds of societies existing under different historical and social conditions, or whether it can be extended to a general moral conception, or a significant part thereof, are altogether separate questions” (Rawls)

Global Justice and Environmental Justice / Fairness (I)

- ‘justice considerations arise in just about any legal context involving health, the environment and natural resources, be it local, global or structural...not necessarily by telling what *is* just and fair, but rather by highlighting important factors and indicators of justice considerations’ (Ebbesson)
- sustainability & justice – ‘contingent’ relationships (Dobson)
 - the environment as something to be distributed
 - justice as functional for sustainability
 - ‘justice to the environment’
 - cf. ‘sustainability [as] a necessary condition for justice’ (Langhelle)

Global Justice and Environmental Justice / Fairness (II)

- role of justice in sustainable development :
 - justice *qua* the more equitable application of legal norms
 - justice *qua* temporal equity
 - justice *qua* spatial equity (substantive equality of NIEO)
- Continuum of “idealism”
 - “micro” redistribution (the “who pays for what?” question)
 - “macro” redistribution (systemic restructuring)
 - “environmental” redistribution
 - generational redistribution

Global Justice and Environmental Justice / Fairness (III)

- ‘the ‘missing link’ in both the sustainable development debate and the justice debate is the recognition of ecological integrity. It is not enough to care for humans living today and those living tomorrow when the natural processes that sustain life are at risk. There is a need to identify and recognise the ethical and legal importance of ecological integrity’ (Bosselmann)

Global Justice and Environmental Justice / Fairness (IV)

- ‘This is not because there is no value within the concept, but because this author at least still thinks it is worth emphasising (if purely through the artifice of words) that justice is not solely about incorporating the ‘social’ within the ‘environmental’, but that the moral imperative of human development is *itself* worthy of pursuit, be that now within increasingly ecological and natural resource constraints. Of course, it is quite possible that ‘environmental justice’ readily is able to include these broader issues within its focus, but I do not think that the term itself was ever intended to be sufficiently inclusive to incorporate the entire complexity of human development and, more specifically, the moral-cum-political *problematique* of North-South inequality’ (French)

Indeterminacy of scope

- “global justice” as paradigmatic motif:
 - international criminal justice
 - a just war?
 - 'peaceful settlement of international disputes...in accordance with the principles of justice and international law' (1982 Manila Declaration)
 - economic justice (New International Economic Order)
- “justice” as affirmation of the rule of law v. confrontation of the current legal order?

Indeterminacy of content

- What does (economic) justice require?
 - procedural fairness and/or just outcomes?
 - humanitarian assistance v. systemic change?
 - economic development and/or political restructuring?
 - formal equality and formal inequality?

Betwixt implausibility and idealism: the global redistribution of resources?

- ‘What is needed...is a systemic approach to egregious global poverty which acknowledges the claim to economic fairness but which also recognizes the impossibility of satisfying that claim solely, or even primarily, by redistributive means’ (Franck)
- ‘Principles of fairness do press us to develop a global system in which distributive justice plays a larger part than at present’

Justice at the global level?

- '[a] Rawlsian Law of Peoples entails neither the equalization of the conditions of those who belong to different peoples nor the globalization of Rawls's difference principle, according to which inequalities are permissible only to the extent that they benefit the worst-off' (Chartier)
- '[justice] lack[s] "a defined goal, aim, or cut-off point, beyond which aid may cease" and might thus, presumably, be both oppressively demanding and difficult to implement' (Chartier quoting Rawls)
- Thomas Pogge: 'It is not easy to convince oneself that our global order, assessed from a Rawlsian perspective, is moderately just'

Concluding Comments

- ‘justice in a given society, as well as international justice if it exists, must consist purely of conventions...“It seems extremely unlikely that there is any substantive moral demand, which all rational agents have sufficient reasons to accept”’ (Okereke quoting Harman)
- cf. ‘The moral pursuit of distributive justice should engage us all because, like Socrates, our intellects should harbor an “an all-engrossing eagerness for answers to moral questions, beginning with the most urgent of all: how should we live?” The question of fairness encompasses that moral issue because fairness supposes a moral compass, a sense of the just society. The law must create solutions and systems which take into account society’s answers to these moral issues of distributive justice, for we are moral as well as social beings’ (Franck quoting Vlastos)

- 'What diplomats and lawyers call equity incorporates important aspects of what ordinary people everywhere call fairness' (Shue)