

 Open access • Journal Article • DOI:10.1086/293470

## **Cosmopolitanism and Sovereignty** — [Source link](#)

Thomas Pogge

**Published on:** 01 Oct 1992 - Ethics (Polity Press)

**Topics:** Cosmopolitanism, Sovereignty, Oppression, Politics and End of history

Related papers:

- [The Problem of Global Justice](#)
- [An Egalitarian Law of Peoples](#)
- [Rawls's Law of Peoples: Rules for a Vanished Westphalian World\\*](#)
- [Rawlsian Global Justice: Beyond the Law of Peoples to a Cosmopolitan Law of Persons](#)
- [Aliens and Citizens: The Case for Open Borders](#)

Share this paper:    

View more about this paper here: <https://typeset.io/papers/cosmopolitanism-and-sovereignty-4re9a1n6r0>

The background of the cover is an abstract, textured composition of various shades of blue and white. The texture is reminiscent of a thick application of paint or a close-up of a rough surface, with visible brushstrokes and irregular, organic shapes. The colors range from deep, dark blues to bright, almost white highlights, creating a sense of depth and movement.

GARRETT WALLACE BROWN  
and DAVID HELD

THE  
cosmopolitanism  
READER

Copyright © this collection Polity Press 2010

Copyright © "Editors Introduction", Garrett Wallace Brown and David Held 2010

Copyright © individual section introductions, Garrett Wallace Brown and David Held 2010

First published in 2010 by Polity Press

Polity Press  
65 Bridge Street  
Cambridge CB2 1UR, UK

Polity Press  
350 Main Street  
Malden, MA 02148, USA

All rights reserved. Except for the quotation of short passages for the purpose of criticism and review, no part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the publisher.

ISBN-13: 978-0-7456-4871-2

ISBN-13: 978-0-7456-4872-9(pb)

A catalogue record for this book is available from the British Library.

Typeset in 10 on 12 pt Swift  
by Toppan Best-set Premedia Limited  
Printed and bound in Great Britain by MPG Books Group Limited, Bodmin, Cornwall

The publisher has used its best endeavours to ensure that the URLs for external websites referred to in this book are correct and active at the time of going to press. However, the publisher has no responsibility for the websites and can make no guarantee that a site will remain live or that the content is or will remain appropriate.

For further information on Polity, visit our website: [www.politybooks.com](http://www.politybooks.com)

# Contents

<i>Acknowledgements</i>	viii
<b>Editors' Introduction</b> <i>Garrett Wallace Brown and David Held</i>	1
<b>I. Kant and Contemporary Cosmopolitanism</b>	15
Introduction	15
1 Idea of a Universal History with a Cosmopolitan Purpose <i>Immanuel Kant</i>	17
2 Kant and Cosmopolitanism <i>Martha C. Nussbaum</i>	27
3 Kant's Cosmopolitanism <i>Garrett Wallace Brown</i>	45
4 A Kantian Approach to Transnational Justice <i>Onora O'Neill</i>	61
<b>II. Cosmopolitan Global Justice</b>	81
Introduction	81
5 Justice and International Relations <i>Charles R. Beitz</i>	85
6 International Society from a Cosmopolitan Perspective <i>Brian Barry</i>	100
7 Cosmopolitanism and Sovereignty <i>Thomas Pogge</i>	114
8 International Distributive Justice <i>Simon Caney</i>	134

---

<b>III.</b>	<b>Cosmopolitanism, Nationality, States and Culture</b>	<b>151</b>
	Introduction	151
9	Patriotism and Cosmopolitanism <i>Martha C. Nussbaum</i>	155
10	What is Cosmopolitan? <i>Jeremy Waldron</i>	163
11	Nationalism and Cosmopolitanism <i>Kok-Chor Tan</i>	176
12	Global Distributive Justice and the State <i>Simon Caney</i>	191
<b>IV.</b>	<b>Cosmopolitan Politics</b>	<b>213</b>
	Introduction	213
13	The Cosmopolitan Manifesto <i>Ulrich Beck</i>	217
14	Principles of Cosmopolitan Order <i>David Held</i>	229
15	Moving from Cosmopolitan Legal Theory to Legal Practice: Models of Cosmopolitan Law <i>Garrett Wallace Brown</i>	248
16	A Political Constitution for the Pluralist World Society? <i>Jürgen Habermas</i>	267
<b>V.</b>	<b>Cosmopolitanism, Global Issues, and Governance</b>	<b>289</b>
	Introduction	289
17	Reframing Global Governance: Apocalypse Soon or Reform! <i>David Held</i>	293
18	The Architecture of Cosmopolitan Democracy <i>Daniele Archibugi</i>	312
19	Humanitarian Intervention: Towards a Cosmopolitan Approach <i>Mary Kaldor</i>	334
20	The Environment, Global Justice and World Environmental Citizenship <i>Patrick Hayden</i>	351

---

<b>VI.</b>	<b>Cosmopolitan Examinations and Critiques</b>	<b>373</b>
	Introduction	373
21	Cosmopolitanism <i>David Miller</i>	377
22	The Problem of Global Justice <i>Thomas Nagel</i>	393
23	On Cosmopolitanism <i>Jacques Derrida</i>	413
24	Can International Organizations be Democratic? A Skeptic's View <i>Robert A. Dahl</i>	423
25	Citizenship in an Era of Globalization <i>Will Kymlicka</i>	435
26	A Comprehensive Overview of Cosmopolitan Literature <i>Garrett Wallace Brown and Megan Kime</i>	444
	<i>Index</i>	465

## Acknowledgements

Trying to cover the broad scope and application of cosmopolitan thought in one volume is not easy. This is because cosmopolitanism, like any political theory, has many interdisciplinary facets and sophisticated idiosyncrasies. To help us in our endeavor to provide the most comprehensive Reader possible, we have sought the advice and expertise of several colleagues, friends and fellow cosmopolitans. Because of their help, we owe considerable appreciation to Daniele Archibugi, Mathias Koenig-Archibugi, Gideon Baker, Richard Beardsworth, Ali Bohm, James Brassett, John Charvet, Luis Cabrera, Robert Fine, Antonio Franceschet, Patrick Hayden, Megan Kime, Raffaele Marchetti, David Miller, Martha Nussbaum, Angie Pepper, Richard Shapcott and William Smith for their useful comments and suggestions. In addition, we are extremely grateful to Ryan Wilber who went above and beyond the call of duty in organizing the material for editing this volume and to Rachel Naish for her work on the project. Lastly, we would like to thank Sarah Lambert and the editorial, marketing and production team at Polity Press for their exceptional help and patience throughout.

We are grateful to the following for permission to reproduce copyright material:

Cambridge University Press and Professor Reiss, for material from "Idea of a Universal History with a Cosmopolitan Purpose" by Immanuel Kant in *Kant's Political Writings*, by Hans Reiss, 1970, published by Cambridge University Press reproduced with permission; The MIT Press for 27 page extract from "Kant and Cosmopolitanism" by Martha Nussbaum published in *Perpetual Peace: Essays on Kant's Cosmopolitan Ideal* edited by James Bohman and Matthias Lutz-Bachmann, pp. 25-51, plus references, copyright © 1997, Massachusetts Institute of Technology, by permission of The MIT Press, and Martha Nussbaum; Edinburgh University Press for material from *Grounding Cosmopolitanism: From Kant to the idea of a Cosmopolitan Constitution* by Garrett Wallace Brown, 2009, copyright © Edinburgh University Press, [www.euppublishing.com](http://www.euppublishing.com); Polity Press and Stanford University Press for material from "A Kantian Approach to Transnational Justice" by Onora O'Neill from *Political Theory Today* by David Held copyright © 1991 David Held, by permission of Polity Press, Onora O'Neill and Stanford University; Wiley-Blackwell for material abridged from "Justice and International Relations" by Charles Beitz published in *Philosophy and Public Affairs Journal*, Vol 4(4), Summer 1975, pp. 360-389, copyright © 1975 Wiley-Blackwell; Princeton University Press for material abridged from "International Society from A Cosmopolitan Perspective" by Brian Barry in *International Society: Diverse Ethical Perspectives* edited by

David Mapel and Terry Nardin, 1998, pp. 144–161, copyright © 1998 Princeton University Press. Reprinted by permission of Princeton University Press; University of Chicago Press for material abridged from “Cosmopolitanism and Sovereignty,” by Thomas W. Pogge from *Ethics* 103(1) 1992, pp. 48–75, copyright © 1992, The University of Chicago Press, reproduced with permission of University of Chicago Press and Thomas Pogge; Wiley-Blackwell for material abridged from “International Distributive Justice: A Review” by Simon Caney, published in *Political Studies Journal*, Vol 49, 2001, pp. 974–989, copyright © 2001 Wiley-Blackwell; Beacon Press for material from “Patriotism and Cosmopolitanism”, published in *For Love of Country* by Martha C. Nussbaum, copyright © 1996 Martha C. Nussbaum and Joshua Cohen. Reprinted by permission of Beacon Press, Boston and Martha C. Nussbaum; Wiley-Blackwell for material abridged from “What is Cosmopolitan?” by Jeremy Waldron, published in *Journal of Political Philosophy*, Vol 8(2), 1999, pp. 227–243, copyright © 1999 Wiley-Blackwell; Cambridge University Press for material from “Nationalism and Cosmopolitanism” in *Justice without Borders: Cosmopolitanism, Nationalism, and Patriotism* by Kok-Chor Tan, copyright © Kok-Chor Tan, 2004, published by Cambridge University Press reproduced with permission of Cambridge University Press and Kok-Chor Tan; Wiley-Blackwell for material abridged from “Distributive Justice and the State” by Simon Caney, published in *Political Studies Journal*, Vol 56(3), 2008, pp. 487–514, copyright © 2008 Wiley-Blackwell; Polity Press for material abridged from “The Cosmopolitan Manifesto” in *World Risk Society* by Ulrich Beck, 1999, pp. 1–18. Reproduced by permission of Polity Press; Cambridge University Press for material from “Principles of Cosmopolitan Order” in *The Political Philosophy of Cosmopolitanism* by David Held, edited by G. Brock and H. Brighouse, copyright © G. Brock and H. Brighouse 2005, published by Cambridge University Press and reproduced with permission; Wiley-Blackwell for material abridged from “Moving Cosmopolitan Legal Theory to Legal Practice: Models of Cosmopolitan Law” by Garrett Wallace Brown, published in *Legal Studies Journal*, Vol 28(3), 2008, pp. 430–451 copyright © 2008 Garrett Wallace Brown; Polity Press for material abridged from “A Political Constitution for the Pluralist World Society” in *Between Naturalism & Religion: Philosophical Essays* by Jurgen Habermas, 2008, pp. 312–352. Reproduced by permission of Polity Press; Polity Press for material abridged from “Reframing Global Governance: Apocalypse soon or reform!” in *Globalization Theory: Approaches and Controversies* by David Held and A. McGrew, 2007, pp. 240–257. Reproduced by permission of Polity Press; Princeton University Press for material abridged from “The Architecture of Cosmopolitan Democracy” in *The Global Commonwealth of Citizens: Toward Cosmopolitan Democracy* by Daniele Archibugi, 2008, pp. 86–122, copyright © 2008 Princeton University Press. Reprinted by permission of Princeton University Press; Polity Press and Stanford University Press for material from *New and Old Wars: Organized Violence in a Global Era*, 2<sup>nd</sup> ed by Mary Kaldor, copyright © 1991, 2006 Mary Kaldor, reproduced with permission from Polity Press and Stanford University Press; Ashgate Publishing Ltd for material abridged from “The Environment, Global Justice and World Environment Citizenship” published in *Cosmopolitan Global Politics: The Pursuit of a Humane World Order* by Patrick Hayden, copyright © 2005 Ashgate; Oxford University Press for material abridged from “Cosmopolitanism” in *National Responsibilities and Global Justice* by David Miller, 2007, pp. 23–50 copyright © Oxford University Press; Wiley-Blackwell for material abridged from “The Problem of Global Justice” by Thomas Nagel published in *Philosophy and Public Affairs Journal*, Vol 33(2), 2005, pp. 114–147, copyright © 2005 Wiley-Blackwell; Cengage and Editions Galilée for material from *On Cosmopolitanism and Forgiveness* by Jacques Derrida 2001, copyright ©



Cengage, reproduced with permission from Cengage and Editions Galilée; Cambridge University Press for material from “Can International Institutions be Democratic? A Skeptic’s View” by Robert Dahl, copyright © Cambridge University Press, 1999, reproduced with permission of Cambridge University Press and Robert Dahl; and Cambridge University Press for material from “Citizenship in an Era of Globalization” by Will Kymlicka in *Democracy’s Edges (Contemporary Political Theory)* edited by I. Shapiro and C. Hacker-Cordon, copyright © Cambridge University Press, 1999, reproduced with permission of Cambridge University Press and Will Kymlicka.

Every effort has been made to trace all copyright holders, but if any have been inadvertently overlooked the publisher will be pleased to include any necessary credits in any subsequent reprint or edition.

Pages 113 to 114 are not shown in this preview.

than, legal cosmopolitanism: it may support the latter for certain empirical circumstances, but it may, for different circumstances, support less uniform arrangements such as a system of autonomous states or even a multitude of self-contained communities. Here I present a variant of moral cosmopolitanism before examining below whether this position supports reforms that would bring our global order closer to the ideal of legal cosmopolitanism.

The central idea of moral cosmopolitanism is that every human being has a global stature as an ultimate unit of moral concern. Such moral concern can be fleshed out in countless ways. One may focus on subjective goods and ills (human happiness, desire fulfillment, preference satisfaction, or pain avoidance) or on more objective ones (such as human-need fulfillment, capabilities, opportunities, or resources). Also, one might relativize these measures, for instance by defining the key ill as *being worse off than anyone need be, as being dominated by others, or as falling below the mean* – which is equivalent to replacing straightforward aggregation (sum-ranking or averaging) by a maximum or egalitarian standard. In order to get to my topic quickly, I do not discuss these matters, but simply opt for a variant of moral cosmopolitanism that is formulated in terms of *human rights* with straightforward interpersonal aggregation.<sup>2</sup> In doing so, I capture what most other variants likewise consider essential. And my further reflections can, in any case, easily be generalized to other variants of moral cosmopolitanism.

My second distinction lies *within* the domain of the moral. It concerns the nature of the moral constraints to be imposed. An *institutional* conception postulates certain fundamental principles of social *justice*. These apply to institutional schemes and are thus second-order principles: standards for assessing the ground rules and practices that regulate human interactions. An *interactional* conception, by contrast, postulates certain fundamental principles of *ethics*. These principles, like institutional ground rules, are first-order in that they apply directly to the conduct of persons and groups.

Interactional cosmopolitanism assigns direct responsibility for the fulfillment of human rights to other individual and collective agents, whereas institutional cosmopolitanism assigns such responsibility to institutional schemes. On the latter view, the responsibility of persons is, then, indirect – a shared responsibility for the justice of any practices one helps to impose: one ought not to cooperate in the imposition of a coercive institutional order that avoidably leaves human rights unfulfilled without making reasonable efforts to protect its victims and to promote institutional reform.

Institutional and interactional conceptions are compatible and thus may be combined in a mutually complementary way.<sup>3</sup> Here I focus, however, on a variant of institutional cosmopolitanism while leaving open the question of its supplementation by a variant of interactional cosmopolitanism. I hope to show that making the institutional view primary leads to a more plausible and more pertinent overall morality. To do this, let me begin by exploring how the two approaches yield different understandings of human rights and their fulfillment.

On the interactional view human rights impose constraints on conduct, while on the institutional view they impose constraints, in the first instance, upon shared practices. The latter approach has two straightforward limitations. First, its applicability is contingent, in that human rights are activated only through the emergence of social institutions. Where such institutions are lacking, human rights are merely

latent, incapable of being either fulfilled or unfulfilled. Thus, if we accept a purely institutional conception of human rights, then we need some additional moral conception to formulate moral constraints on conduct in a disorganized state of nature.

Second, the cosmopolitanism of the institutional approach is contingent as well, in that the *global* moral force of human rights is activated only through the emergence of a *global* institutional order, which triggers obligations to promote any feasible reforms of this order that would enhance the fulfillment of human rights. So long as there is a plurality of self-contained cultures, the responsibility for unfulfilled human rights does not extend beyond their boundaries. [. . .] It is only because all human beings are now participants in a single, global institutional order – involving such institutions as the territorial state, a system of international law and diplomacy, as well as a global economic system of property rights and markets for capital, goods, and services – that all unfulfilled human rights have come to be, at least potentially, everyone's responsibility.<sup>4</sup>

These two limitations do not violate generality. Each person has a duty toward *every* other not to cooperate in imposing an unjust institutional order upon her, even while this duty triggers human-rights-based obligations only to fellow participants in the same institutional scheme. This is analogous to how the duty to keep one's promises is general even while it triggers obligations only toward persons to whom one has actually made a promise.

We see here how the institutional approach makes available an appealing intermediate position between two interactional extremes: it goes beyond simple libertarianism, according to which we may ignore harms that we do not directly bring about, without falling into a utilitarianism of rights, which commands us to take account of all relevant harms whatsoever, regardless of our causal relation to them. [. . .]

Consider, for example, a human right not to be enslaved. On an interactional view, this right would constrain persons, who must not enslave one another. On an institutional view, the right would constrain legal and economic institutions: ownership rights in persons must not be recognized or enforced. This leads to an important difference regarding the moral role of those who are neither slaves nor slaveholders. On the interactional view, such third parties have no responsibility toward existing slaves, unless the human right in question involved, besides the negative duty not to enslave, also a positive duty to protect or rescue others from enslavement. Such positive duties have been notoriously controversial. On the institutional view, by contrast, those involved in upholding an institutional order that authorizes and enforces slavery – even those who own no slaves themselves – count as cooperating in the enslavement, in violation of a *negative* duty, unless they make reasonable efforts toward protecting slaves or promoting institutional reform. The institutional view thus broadens the circle of those who share responsibility for certain deprivations and abuses beyond what a simple libertarianism would justify, and it does so without having to affirm positive duties.

To be sure, promoting institutional reform is doing something (positive). But the duty requiring one to do so may nonetheless be negative for those who would otherwise, through their involvement in upholding the relevant institutional order, be harming its victims. This is analogous to how the libertarians' favorite negative duty may entail positive obligations: one must do what one has promised or contracted to do pursuant to one's negative duty not to promise/contract without performing. In

both cases, the negative duty gives rise to positive obligations only through prior voluntary conduct: one's promise, or one's involvement in upholding a coercive institutional order.

The move from an interactional to an institutional approach thus blocks one way in which today's rich and mighty in the world's affluent regions like to see themselves as morally disconnected from the fate of the poor in the developing countries. It overcomes the claim that one need only refrain from violating human rights directly, that one cannot reasonably be required to become a soldier in the global struggle against human-rights violators and a comforter of their victims worldwide. This claim is not refuted but shown to be irrelevant. We are asked to be concerned about avoidably unfulfilled human rights not simply insofar as they exist at all, but only insofar as they are [produced by coercive social institutions in whose imposition we are] involved. Our negative duty not to cooperate in the imposition of unjust coercive institutions triggers obligations to protect their victims and to promote feasible reforms that would enhance their fulfillment of human rights.

One may think that a shared responsibility for the justice of any social institutions one is involved in imposing cannot plausibly extend beyond our national institutional order, in which we participate as citizens, and which we can most immediately affect. But such a limitation is untenable. The existing global institutional order is neither natural nor God-given, but shaped and upheld by the more powerful governments and by other actors they control (such as the EU, NATO, UN, WTO, OECD, World Bank, and IMF). At least the more privileged and influential citizens of the more powerful and approximately democratic countries bear then a collective responsibility for their governments' role in designing and imposing this global order and for their governments' failure to reform it toward greater human-rights fulfillment.

There are two main strategies for attempting to limit the practical importance of this shared responsibility. A more philosophical strategy seeks to show that any institutional order should be held responsible only for deprivations it *establishes*, that is, mandates or at least authorizes. A human-rights standard should then classify such an order as acceptable so long as no severe deprivations are established by it, irrespective of any severe deprivations this order merely – however predictably and however avoidably – *engenders*. And we should therefore not count against the current global order the fact that it tends to engender a high incidence of war, torture, and starvation, because nothing in the existing written or unwritten international ground rules calls for such deprivations; they actually forbid both torture and the waging of aggressive war. The prominence of these evils therefore indicates no flaw in our global order and, *a fortiori*, no violation of negative duties on our part (though we may be responsible if our own government engages in torture or an unjust war).

This position is implausible. It would be irrational to assess social institutions without regard to the effects they predictably engender – irrational, for instance, to design a penal code or a tax code without regard to the effects it will actually produce through, for example, the compliance and reward incentives it provides. Longer jail terms may lower crime rates thus reducing aggregate jail time, and lower tax rates may expand the tax base thus increasing tax revenues – or they may have the opposite effect. A legislature would not be doing its job if it made such decisions without regard to their engendered consequences. It would be similarly irresponsible to think about the design and reform of global institutions without regard to *their* engendered consequences.

It does not follow that a plausible standard for assessing social institutions must treat established and engendered consequences on a par. A human right to physical security, for instance, though it should be sensitive to the risks an institutional order may impose on (some of) its participants through the high crime rate it engenders, should certainly be *more* sensitive to the risks it produces through officially authorized or even mandated assaults. (We should not, to give a simple illustration, authorize a “reform” of police procedures that would cause an extra 90 assaults by police against suspects, even if its contribution to deterrence would also reduce by 100 the number of similarly severe assaults by criminals against citizens.) These differentiations can and should be incorporated into any plausible conception of human rights, which should avoid, then, the kind of purely recipient-oriented view of deprivations that is embodied in consequentialist and contractalist (veil-of-ignorance) theorizing. With these differentiations in place, we can count engendered deprivations (such as poverty in a market system or insecurity due to crimes) as relevant to the fulfillment of human rights without committing to a purely recipient-oriented assessment of social institutions that would assign to engendered deprivations the same weight as it assigns to equally severe established deprivations.

[. . .]

A second, more empirical strategy for attempting to limit the practical importance of our shared responsibility for global institutions seeks to downplay the extent to which our global institutional order is causally responsible for current deprivations:

Unfulfilled human rights and their distribution have local explanations. In some countries torture is rampant, while it is virtually non-existent in others. Some regions are embroiled in frequent wars, while others are not. In some countries democratic institutions thrive, while others bring forth a succession of autocrats. And again, some poor countries have developed rapidly, while others are getting poorer year by year. Therefore our global institutional order has very little to do with the deplorable state of human-rights fulfillment on earth.<sup>5</sup>

This challenge appeals to true premises but draws an invalid inference. Our global institutional order can obviously not figure in the explanation of *local* variations in the underfulfillment of human rights, but only in the *macro*explanation of its *global* incidence. This parallels how Japanese culture may figure in the explanation of the Japanese suicide rate or how the laxity of US handgun legislation may figure in the explanation of the North American homicide rate, without thereby explaining particular suicides/homicides or even intercity differentials in rates. In these parallel cases the need for a macroexplanation is obvious from the fact that there are other societies whose suicide/homicide rates are significantly lower. In the case of *global* institutions, the need for a macroexplanation of the overall incidence of unfulfilled human rights is less obvious because – apart from some rather inconclusive historical comparisons – the contrast to observable alternative global institutional schemes is lacking. Still, it is highly likely that there are feasible (i.e. practicable and accessible) alternative global regimes that would tend to engender lower rates of deprivation. This is clear, for example, in regard to economic institutions, where our experience with various national and regional schemes suggests that free markets must be regulated or complemented in certain ways if extreme poverty, entailing effective exclusion from political participation as well as from educational and medical opportunities, is to be avoided. This supports a generalization to the global plane, to the conjecture that the current global economic order must figure prominently in the explanation of the fact that our world is one of

vast and increasing inequalities in income and wealth, with consequent huge differentials in rates of infant mortality, life expectancy, disease, and malnutrition. Such a macroexplanation does not explain why one poor country is developing rapidly while another is not. It explains why so few are while so many are not.

Let me close the more abstract part of the discussion with a sketch of how this institutional view might understand social and economic human rights and how it might thus relate to the notion of distributive justice. A man sympathetic to the moral claims of the poor, Michael Walzer, has written: "the idea of distributive justice presupposes a bounded world, a community, within which distributions take place, a group of people committed to dividing, exchanging, and sharing, first of all among themselves."<sup>6</sup> This is precisely the picture of distributive justice that Robert Nozick has so vigorously attacked. To the notion of dividing he objects that "there is no *central* distribution, no person or group entitled to control all the resources, jointly deciding how they are to be doled out."<sup>7</sup> And as for the rest, he would allow persons to do all the exchanging and sharing they like, but would strongly reject any enforced sharing effected by some redistribution bureaucracy.

The institutional approach involves a conception of distributive justice that differs sharply from the one Walzer supports and Nozick attacks. Here the issue of distributive justice is not how to distribute a given pool of resources or how to improve upon a given distribution but, rather, how to choose or design the economic ground rules that regulate property, cooperation, and exchange and thereby condition, production and distribution. (On the particular view I defend, for example, we should aim for an economic order under which each participant would be able to meet her basic social and economic needs.) A conception of distributive justice understood in this way, as providing a standard for the moral assessment of alternative feasible schemes of economic institutions, is prior to both production and distribution occurring under such schemes and therefore involves neither the idea of an already existing pool of stuff to be doled out nor the idea of already owned resources to be *re*-distributed.

The institutional conception of distributive justice also does not presuppose the existence of a community of persons committed first of all to share with one another. Rather, it has a far more minimal rationale: we face a choice of economic ground rules that is partly open – not determined by causal necessity, nor preempted by some God-given or natural or neutral order that we must choose irrespective of its effects. This choice has a tremendous impact on human lives, an impact from which persons cannot be insulated and cannot insulate themselves. Our present global economic order produces a stable pattern of widespread malnutrition and starvation among the poor, with some 18 million persons dying each year from poverty-related causes, and there are likely to be feasible alternative regimes that would not produce similarly severe deprivations. If this is so, the victims of such avoidable deprivations are not merely poor and starving, but impoverished and starved through an institutional order coercively imposed upon them. There is an injustice in this economic order, which it would be wrong for its more affluent participants to perpetuate. And that is so quite independently of whether we and the starving are united by a communal bond or committed to sharing resources with one another – just as murdering a person is wrong irrespective of such considerations. This is what the assertion of social and economic human rights amounts to within the proposed institutional cosmopolitanism.

[ . . . ]

in favor of those governments in the vertical order that have authority over the core functions. The political units coordinate to these dominant governments, and only they, deserve the title of "country" or "state" (excepting the use of this word within the US).

To be assessable, such a claim stands in need of two clarifications, which are rarely supplied. First, when one thinks about it more carefully, it turns out to be surprisingly difficult to come up with examples of indivisible governmental functions. Eminent domain, economic policy, foreign policy, judicial review; the control of natural resources, security forces, education, health care, and income support; the regulation and taxation of resource extraction and pollution, of work and consumption, can all be handled at various levels and indeed *are* so handled in existing federal regimes and confederations. So what are the governmental functions that supposedly are vertically indivisible? And, second, is their indivisibility supposed to be derived from a conceptual insight, from empirical exigencies, or from moral desiderata? And which ones?

Since I cannot here discuss all possible type 2 objections, let me concentrate on one paradigm case. Walzer claims that the authority to fix membership, to admit and exclude, is at least part of an indivisible core of sovereignty: "At some level of political organization something like the sovereign state must take shape and claim the authority to make its own admissions policy, to control and sometimes to restrain the flow of immigrants."<sup>10</sup> Walzer's "must" does not reflect a conceptual or empirical necessity, for in those senses the authority in question quite obviously *can* be divided – for example, by allowing political units on all levels to veto immigration. It is on moral grounds that Walzer rejects such an authority for provinces, towns, and neighborhoods: it would "create a thousand petty fortresses."<sup>11</sup> But if subunits are to be precluded from controlling the influx of new members, then immigration must be controlled at the state level: "Only if the state makes a selection among would-be members and guarantees the loyalty, security, and welfare of the individuals it selects, can local communities take shape as 'indifferent' associations, determined only by personal preference and market capacity."<sup>12</sup> The asserted connection is again a moral one. It is certainly factually possible for local communities to exist as indifferent associations even while no control is exercised over migration at all; as Walzer says, "the fortresses too could be torn down, of course."<sup>13</sup> Walzer's point is, then, that the insistence on openness (to avoid a thousand petty fortresses) is asking too much of neighborhoods, unless the state has control over immigration: "The distinctiveness of cultures and groups depends upon closure. . . . If this distinctiveness is a value . . . then closure must be permitted somewhere."<sup>14</sup>

But is the conventional model really supported by the rationale Walzer provides? To be sure, Walzer is right to claim that the value of protecting cohesive neighborhood cultures is better served by national immigration control than by no control at all. But it would be served even better if the state could admit only immigrants who are planning to move into a neighborhood that is willing to accept them. Moreover, since a neighborhood culture can be as effectively destroyed by the influx of compatriots as by that of immigrants, neighborhoods would do even better, if they had some authority to select from among prospective domestic newcomers or to limit their number. Finally, neighborhoods may often want to bring in new members from abroad – persons to whom they have special ethnic, religious, or cultural ties – and they would therefore benefit from a role in the national immigration control process that would

allow them to facilitate the admission of such persons. Thus there are at least three reasons for believing that Walzer's rationale – cohesive neighborhood cultures ought to be protected without becoming petty fortresses – is actually *better* served by a division of the authority to admit and exclude than by the conventional concentration of this authority at the level of the state.

### **Some main reasons for a vertical dispersal of sovereignty**

Having dealt with some preliminary obstacles, let me now sketch four main reasons that favor, over the status quo, a world in which sovereignty is widely distributed vertically.

#### *Peace and security*

In the existing global order, interstate rivalries are settled ultimately through military competition, including the threat and use of military force. Moreover, within their own territories, national governments are free to do virtually anything they like. Such governments therefore have very powerful incentives and very broad opportunities to develop their military might. This is bound to lead to the further proliferation of nuclear, biological, chemical, and conventional weapons of mass destruction. And in a world in which dozens of competing governments control such weapons, the outbreak of devastating wars is only a matter of time. It is unlikely that national control over weapons of mass destruction can be abolished within the existing world order – through a disarmament program that depends upon the voluntary acceptance and compliance of each and every national government, for example. The continuation of this order would thus probably lead to more and more national governments gaining the capacity to trigger a major catastrophe, and possibly to attempts by some preemptively to disarm others. Nonproliferation and gradual abolition of weapons of mass destruction presuppose a substantial centralization of authority and power at the global level – in violation of the prevalent idea of state sovereignty. Such centralization can best be accomplished in the context of a multilayered global order, that is, in the course of a process of second-order decentralization. If such global institutional reform process also reduced repression and economic injustice, its disarmament component might well win broad support from peoples and governments – provided it increases the security of all on fair terms that are effectively adjudicated and enforced. The attempt to advance disarmament in this way would in any case be far less dangerous than continuing the status quo.

#### *Reducing oppression*

In the current global order, national governments are effectively free to control “their” populations in whatever way they see fit. Many make extensive use of this freedom by torturing and murdering their domestic opponents, censoring information, suppressing and subverting democratic procedures, prohibiting emigration, and so forth. These massive violations of human rights could be reduced through a vertical dispersal of sovereignty over various layers of political units that would check and balance one another as well as publicize one another's abuses.